



Appeal Decision

Site visit made on 20 August 2024

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2024

Appeal Ref: APP/T2215/W/23/3333289

Alfan Lane Full Gospel Church, 1A Alfan Lane, Wilmington, Kent DA2 7HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by L Saromi against the decision of Dartford Borough Council.
 - The application Ref is DA/22/01265/FUL.
 - The development proposed is demolition of existing disused and redundant gospel church (Class F1) and erection of a single dwelling (Class C3) with soft landscaping and parking provision.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the appellant against Dartford Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. The Dartford Local Plan to 2037 (DLP) was under examination at the time of the Council's decision and relevant draft policies were referred to in the reasons for refusal. The DLP was adopted in April 2024 and relevant policies in the Core Strategy 2011 and the Dartford Development Policies Plan 2017 have been superseded. The appellant's statement of case includes commentary on the relevant draft policies and, although some of those have been re-numbered, the adopted wording is not materially different. I have had regard to the adopted development plan when considering the appeal.
4. Consent for works to relevant protected trees was granted by the Council in March 2024, after the appeal was submitted. Although evidence of this decision was submitted outside the appeal timetable, it is relevant to the issues under consideration and could not realistically have been provided earlier. The Council has had the opportunity to comment. I have had regard to this evidence and am satisfied that no unfairness would arise to any party as a result.
5. The appellant's final comments include a statement in Appendix 3 which introduces new evidence relating to representations from interested parties. No similar comments were made in the appellant's statement of case and interested parties have had no opportunity to respond. As such, I have disregarded the contents of this statement, since it would be procedurally unfair for me to take this evidence into account.

Main Issues

6. The main issues are:

- the effect of the proposal on the availability of community facilities,
- the effect on the character and appearance of the area in relation to the design of the proposed dwelling,
- the effect on the character and appearance of the area in relation to the effect on protected trees, and
- whether the proposal would be a suitable location for a dwelling, having regard to the Council's spatial strategy in relation to windfall development.

Reasons

Community Facilities

7. The appeal site contains a dilapidated single storey building, last used a church, but unoccupied since 2008. It is accessed via Alfam Lane, which is a single-track private road, with a narrow entrance from Birchwood Road. Beyond the appeal site there is a row of dwellings on one side of the lane, facing a parcel of woodland.
8. While both parties agree that the building has not been used as a church since 2008, the Planning Statement¹ submitted with the application stated its use as a church had not been abandoned as defined in relevant case law. The Council considered the application on the basis that the established use of the site falls within Class F1 of the Town and Country Planning (Use Classes) Order 1987 (as amended).
9. While the appellant has mentioned a recent appeal in which the question of abandonment was considered, I have not been provided with a copy of that decision or any further details, beyond confirmation that there are few parallels with the current proposal. The question of whether the use has been abandoned would more appropriately be considered through an application for a Certificate of Existing Lawful Use and no such application is before me. I have accordingly considered the appeal on the basis that the established use of the site is within Class F1, as indicated at the time of the application.
10. Policy M17 of the DLP states, amongst other things, that development of existing community facilities or land for non-community purposes will be refused unless there is clear evidence that the facility is not needed by the existing and future community and all reasonable efforts have been made to preserve a community use, including exploration of appropriate solutions to retain the facility with operators/service providers and where appropriate the local community. The National Planning Policy Framework (the Framework) similarly requires that the unnecessary loss of valued facilities should be guarded against.
11. While Policy M17 does not itself include a requirement for marketing, the supporting text elaborates on relevant evidence to address its requirements. These include evidence of marketing for at least 12 months at a relevant and realistic asking price. They also include undertaking a full search for another

¹ Planning Statement by Wilbury Planning Ltd 27 October 2022

operator/provider across the range of community service uses and exploration of appropriate community-based solutions.

12. The previous owner apparently let the building stand vacant for several years before disposing of the site and there is evidence of an alternative church within the same denomination nearby. The building is not registered as an Asset of Community Value. However, there are several references in the evidence, including in representations from interested parties, to active interest having been expressed in the site from alternative church groups, both in the early stages of marketing and more recently.
13. The existing building is not fit for occupation, since part of the roof has collapsed, and the interior is exposed to the elements. The Structural Assessment² recommends that it is classified as a dangerous structure and should be demolished. On that basis, continued community use of the site would rely on erection of a new building.
14. A May 2023 Report & Valuation³ placed a negative market value on the site, on the basis that its existing use value would be significantly below the cost of providing a sound building for community purposes. More recent evidence from a different marketing agent⁴ included a positive existing use value, although it also highlighted the significant cost of providing a replacement building.
15. For the majority of the various marketing periods detailed in the evidence, the asking price was £499,995. While this reflects the sum for which the site was purchased in 2021, which will have benefitted the community organisation which previously owned the site, that asking price nevertheless substantially exceeds the existing use values assessed by either of the above agents. This discrepancy between the asking price and existing use valuation undermines the value of evidence arising from marketing of the site at that price.
16. Although it is reported that potential purchasers were put off by the level of investment required in the site, that would have been in the context of the higher asking price. Therefore, these responses do not clearly establish whether a more realistic asking price would have led to a positive outcome. This is contrary to the approach in the supporting text to Policy M17, which requires marketing based on a relevant and realistic asking price.
17. The asking price was reduced in late September 2023, when marketing re-commenced, involving an agent specialising in the F1 use class sector. Their letter dated 10 November 2023 states that there was further interest, largely from faith groups, including a number of viewings. No offer was made, with the cost of rebuilding again being cited as a factor. However, this short marketing period at the lower price falls significantly short of the 12 month period sought in the DLP. While the property may have remained on the market since then, no evidence is available as to the outcome.
18. In addition to the marketing evidence, a Community Facility Needs Assessment⁵ (CFNA) has been provided, which examines a wide range of potential community uses, including re-use as a place of worship. They include use as a meeting hall or similar, as mentioned by the Council. The CFNA

² De Medici Associates Structural Assessment Statement dated 28 April 2022

³ Caxtons Chartered Surveyors, Report & Valuation dated May 2023

⁴ Alex Martin Commercial Ltd, Letter dated 10 November 2023

⁵ Wilbury Planning Ltd Community Facility Needs Assessment 28 October 2022

highlights existing facilities which are stated to meet those needs, although in several cases these are at least 4-5km from the site, so are not clearly focussed on the needs of the most immediately local community.

19. As set out in the CFNA, the small scale of the site is clearly a constraint on the range of potential community uses, as is its restricted access along a narrow private lane and the limited space for car parking and turning. There is no footpath to support pedestrian access. There is some support for use of the site as a family dwelling from nearby residents. There may also be benefits to the living conditions of neighbouring occupiers in terms of reduced noise and disturbance, and reduced risk of anti-social behaviour while the site is vacant. However, these factors do not, to my mind, outweigh the potential benefits of ongoing community use at a modest scale suitable for the surroundings.
20. While the appellant asserts that funding would not be available to provide a small-scale community facility, there is no clear evidence that this has been explored through engagement with relevant community groups or voluntary organisations in the local area, including those who have expressed an interest in the site at various points. Therefore, this assertion is not robustly justified by supporting evidence. In combination with the unrealistic terms underpinning the majority of the marketing period to date, based on the evidence before me I am not persuaded that all reasonable efforts have been made to preserve a community use, including exploration of appropriate solutions with relevant operators and service providers.
21. For the above reasons, I conclude that the proposal would have a materially adverse effect on the availability of community facilities. It would conflict with Policy M17 of the DLP, as summarised above, and with similar requirements in the Framework that guard against the loss of valued community facilities.

Character and Appearance - Design

22. The appeal site is a narrow rectangular plot behind one of the dwellings fronting Birchwood Road, with a long frontage to Alfian Lane. There is a gradual slope up Alfian Lane, which is a narrow private road with houses on one side. These are enclosed between an area of woodland opposite and the surrounding leafy back gardens.
23. The houses on Birchwood Road are generally on two storeys. Several have additional accommodation in the roof and many are of sizable and imposing proportions. Those fronting Alfian Lane are less imposing, being single storey properties of various designs, some with rooms in the roof. Alfian Lane generally has an intimate and leafy character, contrasting with the busier and more built-up frontage to Birchwood Road.
24. The proposed dwelling would be contemporary in appearance, using external materials which respond to the varied palette found nearby. The metal sheeting to the roof would not be typical of the area, but it would tone with grey roofing materials used on some of the nearby properties. Nearby dwellings vary considerably in appearance and a bespoke design approach is not inappropriate in principle.
25. However, the proposal would introduce a substantial two storey building into Alfian Lane, with a long front elevation and more imposing proportions than the existing bungalows and chalet bungalows. Although the front elevation would

be broken up into separate elements, to either side of a central entrance porch, the roofline would be continuous and the long, narrow form of the building would be among its most obvious characteristics.

26. Due to the topography, the roofline on Alfán Lane is above the roofline on Birchwood Road. The design also responds to the gradient, by setting the dwelling into the sloping site and locating the single storey element on the higher ground. The appellant argues that there would be an appropriate transition between the larger dwellings on Birchwood Road and those on Alfán Lane. However, the narrow entrance to Alfán Lane is tightly enclosed between the two adjacent houses. The appeal site and dwellings beyond it are set well back from Birchwood Road and screened behind neighbouring buildings. Consequently, the two street scenes are not read together. As such, there is no clear rationale for a transitional approach and any dwelling on the appeal site should respond to the character and appearance of Alfán Lane.
27. Within Alfán Lane, the existing bungalows are set back behind front gardens, along a fairly consistent building line. In contrast, the proposed dwelling would be set forward, with only a narrow, planted strip along the roadside. While the flank walls of the dwellings to either side of the entrance to Alfán Lane are also tight to the boundaries, that is not characteristic of the rest of the street scene. As a result of its scale, combined with its forward position, the dwelling would appear bulky and highly prominent. It would not integrate well with the intimate, leafy street scene and would be an overbearing and unduly dominant feature, compared to the dwellings beyond.
28. The dwelling would adjoin neighbouring two storey dwellings on Clarendon Place, which are also set behind the Birchwood Road frontage. However, these have smaller footprints and are set back behind the appeal site and enclosed by mature trees. Consequently, they are significantly less prominent from Alfán Lane and do not establish any precedent for a larger and more imposing dwelling on the appeal site.
29. While the percentage plot coverage may be comparable to nearby plots, the orientation of the dwelling would differ, with the building being tightly enclosed around three sides and orientated with its longest elevation in a highly prominent position on the site frontage. There would be insufficient space within the plot to balance its considerable scale. Comparison with the percentage threshold for extensions erected under permitted development rights is of little relevance, since such extensions are also subject to a variety of limits on their siting and scale, particularly where they would be located close to site boundaries.
30. I recognise that the dwelling would be architect designed and that its form responds to the site constraints. Both Policy M1 and paragraph 139 of the Framework are supportive in principle of outstanding or innovative design in the right circumstances. However, such support is qualified by requirements that the approach adopted should be suitable to its surroundings. In this particular case, the scale and prominent, forward position of the dwelling would be harmfully at odds with its surroundings. Consequently, the proposal would not provide a high quality design when considered in relation to its context.
31. For the above reasons, I conclude that the proposed dwelling would be harmful to the character and appearance of the area in relation to its design. It would conflict with relevant requirements in Policies M1 and M10 of the DLP, which

include that development should respond to, reinforce and enhance positive aspects of the locality, being suitable in terms of factors including scale and siting, and retaining or enhancing the character, local environment and amenity of established residential areas.

Character and Appearance – Trees

32. There are no trees within the appeal site. Although interested parties refer to harm arising from the earlier removal of trees, there is no evidence that these were protected by a Tree Preservation Order (TPO), or that their removal was otherwise unauthorised or unlawful. However, there are several trees just outside the site, many of which are covered by an area TPO served in 1990. This covers land now within Clarendon Place, and protects a variety of trees including Ash and Cherry. Of these, the Council alleges that the proposal would be particularly harmful to the mature Wild Cherry Tree T4 which is alongside the dwelling at no. 4 Clarendon Place and the semi-mature Ash trees T6 and T7, which are behind its detached garage, near the corner of the site.
33. Trees T4, T6 and T7 are substantial specimens which are conspicuous from Alfian Lane and within Clarendon Place. They are positive features in the street scene and contribute to the character and appearance of the area, including the leafy qualities of Alfian Lane. There is no substantive evidence that the area TPO was intended as a temporary measure. Nor does the fact that the Council has granted consent to prune the trees on several occasions imply that they are no longer worthy of protection.
34. The Root Protection Areas (RPAs) of trees T4, T6 and T7, as identified in the AIA⁶, are already affected by the foundations of the existing building and the concrete hardstanding in the eastern part of the site. The proposed design responds to the presence of the trees, with the footprint being cut back to maintain space around tree T4. On completion the proposed development would have a reduced amount of hard surfacing within the RPAs of the protected trees.
35. A raft foundation on screw piles is proposed, to minimise ground disturbance. The AIA places some emphasis on the minimal depth of the raft, at 250mm, which is described as being comparable to the existing foundations and hardstanding. Protective measures are also proposed during construction, to monitor and minimise any damage to root systems.
36. The proposed basement would not encroach within the RPAs and the living room slab would be elevated. However, there would be an area of deeper foundations within the RPA of tree T4, to accommodate the change in floor level and upward slope of the site. Within this region, the 250mm raft would be set significantly below existing ground level and would also be below the estimated depth of the existing foundations, as shown on the Tree Impact cross-section in the March 2023 Design and Access Statement. While the root system is likely to be somewhat suppressed by the existing hard surfaces, there is no guarantee that it does not extend under the foundations of the church. Since the AIA places some reliance on the raft being of comparable depth to the existing foundations, it has not been adequately demonstrated that sufficient measures are proposed to mitigate the risk of harmful root damage in this part of the site.

⁶ Broad Oak Tree Consultants Ltd Arboricultural Implications Assessment 26 October 2022

37. The crowns of trees T4, T6 and T7 extended across the boundary of the site at the time of my site visit and the AIA proposes that overhanging branches should be cut back to the boundary line, to avoid conflicts with the proposed structure. Therefore, there would be some effect on the extent of the tree canopies as a result of the development. However, the evidence demonstrates that the trees have been actively managed to reduce overhanging branches in the past. An appropriate management routine could continue, without harming the value of the protected trees in the street scene.
38. The high level first floor windows at the rear of the proposed dwelling would be well back from the canopy of tree T4 and would provide adequate illumination in the hallway. The ground floor study window would be more directly affected by the proximity of trees T6 and T7, but this room would be north facing, so the trees would not obstruct direct sunlight. The habitable rooms would otherwise be largely clear of the tree canopies and/or would benefit from areas of additional glazing facing Alfian Lane. Given the specific tree species concerned, there is limited likelihood that falling fruit or honeydew would be a significant problem for future occupiers. Leaves are likely to fall mainly within the neighbouring property or within the shady courtyard and rain garden where there is no clear indication that they would become a nuisance. Gutter guards could be deployed, if necessary.
39. Given that the trees are protected by a TPO, and already subject to regular maintenance, their effect on future occupiers could reasonably be mitigated through ongoing management and the Council would have control over the extent of any required works.
40. Nevertheless, based on the evidence before me I conclude that there could be material harm to the character and appearance of the area, in relation to the effect on protected trees, arising from the risk of damage to tree T4. Consequently, the proposal would conflict with Policies M1 and M14 of the DLP which require, amongst other things, that development should respond to and reinforce positive aspects of the locality, including tree coverage, and that existing trees should be retained wherever possible.

Spatial Strategy

41. The appeal site is not allocated for residential development. However, the Council's spatial strategy allows in Policy S1 for development on brownfield land not within the Green Belt, where there is good access to services and facilities by public transport, walking and cycling. Policy S5 supports residential development on unallocated sites where the benefits of the proposal outweigh the disbenefits, including the sustainability of the site's location.
42. Policy S5 supersedes Policy CS10 of the Core Strategy, which included four specific criteria for the assessment of windfall sites. Although Policy S5 includes similar criteria, they apply to windfall development involving a net gain of five or more dwellings, which is not proposed in this case.
43. The requirement that the benefits of the proposal outweigh the disbenefits has been carried forward into Policy S5 and is applicable to the proposed development. However, I have given the more detailed requirements in the

Windfall SPD⁷ little weight, since they derive from the four criteria in Policy CS10, which are no longer applicable.

44. In the Officer Report, the Council accepts that the site has an acceptable standard of access to local services and facilities, including by walking, cycling and public transport. Any additional demand for local amenities and infrastructure would be minimal, since only a single dwelling is proposed and there is no substantive evidence that the cumulative demand from small developments cannot be accommodated.
45. The proposal would bring a vacant and dilapidated site back into use. However, the benefits of making effective use of previously developed land are, in this case, offset by the loss of that land for community purposes. As such, the proposal does not gain significant support from the Framework's approach to housing on small, previously developed sites.
46. There would be a small contribution to the supply of housing. However, while the dwelling would be suitable for multi-generational living, with homeworking facilities, no objective evidence has been presented of a specific shortfall of housing suitable for those purposes. The Council refers to a healthy housing land supply position which has not been disputed. While the appellant highlights a downward trend in Housing Delivery Test results, these include the period prior to adoption of the DLP in April 2024, which established an updated housing land supply position. Furthermore, housing delivery has not fallen to a level which would trigger automatic application of the presumption in favour of sustainable development. Considered in that context, delivery of one additional family home is a benefit of modest proportions.
47. The application form indicated that the proposal was for market housing and self-build is not mentioned in the description of the proposed development. Nor has any legal mechanism has been proposed to secure the delivery of self-build housing on the site. Therefore, while I appreciate that may be the appellant's intention, and that the design would respond to their individual requirements, delivery of a self-build scheme meeting the definition in the Framework cannot be guaranteed. I have therefore given the potential contribution to the strategic supply of self and custom build housing limited weight.
48. There would be some short-term economic benefit arising from the construction process. In the longer term, future occupiers would contribute to services and facilities in the local community. However, additional Council Tax and payment of the Community Infrastructure Levy are not a net benefit, since these simply respond to the additional needs arising from the development.
49. An energy-efficient design is proposed which would provide some public benefit, proportionate to the modest scale of the proposal. The slight increase in permeable area may enable some modest improvement in local drainage. However, with regard to biodiversity, the most recent evidence indicates that securing a net gain would be reliant on off-site measures, when the earlier removal of trees is taken into account. No legal mechanism is proposed to secure off-site benefits. Therefore, there is no clear evidence of any biodiversity benefit beyond relevant requirements in the development plan.

⁷ Dartford Borough Council Supplementary Planning Document: Housing Windfall, adopted October 2014

50. Overall, the proposal would provide some benefits, as described above, but these are generally modest in scale, consistent with the delivery of a single dwelling on a small site. For the reasons previously given, there would be several disbenefits comprising the reduced availability of community facilities and the harm to the character and appearance of the area by reason of both the design of the proposed dwelling and the risk of damage to a protected tree. Considered cumulatively, the harm arising from the proposal carries significant weight and the modest benefits do not outweigh the disbenefits.
51. Therefore, based on the specific circumstances of this case, as set out in the evidence before me, I conclude that the proposal would not be a suitable location for a dwelling, having regard to the Council's spatial strategy in relation to windfall development. In particular, it would conflict with the requirements of Policies S1 and S5 in the DLP with regard to residential development on unallocated land, which amongst other things support such development only where the benefits would outweigh the disbenefits.

Other Matters

52. The proposed design addressed policy requirements in relation to internal space standards, accessibility, car parking and fire access. The site is not within a Green Belt, Conservation Area or designated landscape. Although it is close to a site designated for its nature conservation value, no harm has been alleged to biodiversity within the designated site. However, these are neutral factors which are not capable of weighing in favour of the proposal.
53. Even if I were to agree that there would be no adverse effect on living conditions for the occupiers of neighbouring properties, that is also a neutral consideration. The potential advantages of a residential use for neighbouring occupiers are acknowledged above, but do not outweigh the harm associated with loss of a community facility.

Conclusion

54. The proposed development would conflict with the development plan and no material considerations indicate that a decision should be made otherwise than in accordance with the development plan. Therefore, the appeal should be dismissed.

Jane Smith

INSPECTOR