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# Appeal Decision

Site visit made on 28 January 2013

**by Elizabeth Fieldhouse DipTP DipUD MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 12 February 2013**

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**Appeal Ref: APP/T2215/A/12/2180233**  
**47 Drudgeon Way, Bean, Dartford DA2 8BJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Vision Homes Limited against the decision of Dartford Borough Council.
  - The application Ref DA/12/00459/FUL, dated 12 April 2012, was refused by notice dated 20 July 2012.
  - The development proposed is the erection of 8 dwelling houses (6 x 3 beds and 2 x 4 beds), access road and car parking spaces on land at Beacon Drive, Bean.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are:
  - the effect of the proposed development on the overall character and visual amenities of the rural village, particularly having regard to the proposed landscaping;
  - the effect of the proposed development on the living conditions of future and neighbouring occupiers;
  - whether adequate off-street parking would be provided for future occupiers; and
  - whether affordable housing is necessary and justified on the appeal site.

## Reasons

3. The appeal site is an area of some 0.04ha of steeply sloping land that falls away from Beacon Drive to the private section of Drudgeon Way. Access would be from Beacon Drive with parking provided towards the upper side of the site. Allotments adjoin the opposite side of Drudgeon Way beyond which there is a recreation ground before the High Street. From the High Street, the appeal site is clearly visible rising steeply from Drudgeon Way. A group of tree in the north west corner of the site are covered by Tree Preservation Order No13 1983. Although there are other trees on the site, the tree survey found that the trees were not generally worthy of the retention and the majority would be lost in the proposal.

4. The split level houses would be arranged in two terraces of three 3-bedroom dwellings with a pair of 4-bedroom semi-detached houses between. The dwellings would face the access and parking area with the rear elevations facing towards the rear of, or access to properties in Drudgeon Way. Each property would have a patio and private lawn area at the rear fenced from, but with a footpath link to the woodland garden within its curtilage. There would also be a maintenance path along the lower northern edge of the site giving access through gates in the fences to all woodland gardens. The proposed dwellings would be set above, and at roughly roof level of 41-45 (odd) Drudgeon Way.
5. In 1993 permission was granted (DA/92/0662) for the erection of 14 terraced houses with associated parking. More recently, appeal decisions have accepted the principle of residential development the most recent of which was in January 2012 (ref. APP/T2215/A/11/2158795). It was for the 'erection of 10 dwelling houses (6/3 beds; 3x2 beds and 1x1 bed), access road plus 22 parking spaces. I find no reason to disagree with previous Inspectors' views that some form of residential development on the site could be acceptable. In addition, it is noted that the Strategic Housing Land Availability Assessment (SHLAA) identified the appeal site as being able to deliver new homes within the plan period with an indicative capacity of 12 units.

*Overall character having regard to the landscaping proposed*

6. The appellant has tried to address the concerns raised by previous Inspectors over each of the subsequent appeals. The most recent Inspector found harm in terms of the living conditions of future residents and that the development did not represent the high quality of design sought by Government guidance. In addition, he found that there would be a clear risk that the communal areas, with limited access and intrinsic value to future residents, would become neglected over time.
7. The current proposal includes a maintenance access to all the proposed woodland garden areas each of which would be enclosed a house curtilage by 1.8m high close board fencing. The patio gardens above the woodland area would be defined by gabions planted with ivy on which there would be close board fencing. However, although a 1.8m high close board fence is shown in the sections between the patio garden and the woodland area, the hard landscape plan (drawing no. OS419-12.4A) indicates no fencing on top of the separating gabions. Without such fencing there would be a lack of privacy within the patio gardens which would be open to views from the maintenance path. If all the proposed 1.8m high close boarded fences including those shown on the sections were erected, the development would have a very subdivided, hard and fragmented appearance particularly when viewed from the High Street over the recreation ground and allotments as well as from neighbouring properties.
8. Trees are proposed in the woodland gardens but these would take time to be effective and a site boundary of a clipped 2m high hedge inside the fence would be insufficient to soften the visual impact of all the amount of walls and fencing proposed. Overall, as a result of the hard landscaping, particularly the amount of fencing on the steeply sloping site, the proposal would contrast harmfully with the character of the area and be detrimental to the visual amenities. Policy CS17 of the Dartford Core Strategy 2011 (CS) and Dartford Local Plan 1995 (LP) policy B3 would not be met.

*Living conditions of future and neighbouring occupiers*

9. The proposed dwellings are of a fairly compact design and parts of the bedroom within the roof of the 3-bedroom dwellings would have restricted headroom. Nevertheless, as illustrated by the appellant, normal bedroom furniture could be accommodated. No harm to future occupiers' amenities is found from the internal space within the dwellings.
10. Each dwelling would have a private patio and lawn area at the lower ground floor level, separated from the more informal woodland garden area which would accommodate the remaining change in levels. Some private amenity spaces would be limited, particularly in respect of plot 7 but, with the front garden space and the more informal area to the rear, each property would have garden space in excess of the minimum required. Nevertheless, the front garden of no. 7 would be severely overlooked from the access and the bin store and of insufficient size to allow adequate planting to overcome harmful overlooking. Therefore, although in numeric terms the total area of amenity/private garden space would be sufficient, having regard to the limitations on the front garden and the woodland garden area, the useable area would be severely inadequate. In this respect the aims of CS policy CS17 would not be met.
11. In addition, there would be an impact on the amenities of some of the occupiers' of neighbouring properties. Compared to the proposal the subject of the previous appeal, the private gardens have been lowered and, as shown in the sections, would be behind fences or walls. This together with the proposed boundary fencing and planting and the separation between the proposed dwellings and 41-45 Drudgeon Way as well as the angling of some of the proposed windows, direct overlooking of neighbouring properties would be prevented.
12. However, 47 Drudgeon Way would have a fairly large flank living room window in the proposed dwelling on plot 8 roughly on a level with, but at a slight angle to, the window in the end of the living room to no.47. There would be about 12m separation. Flank windows are also proposed to the stair and bedroom 3. Drawing no.GA-E-02C shows obscure glazing to the bedroom window. Obscure glazing could be required by condition to the other windows but that to the lounge would be sizeable and, even if obscure glazed, there would be an unacceptable perception of loss of privacy in the lounge of the existing property.
13. In addition, parking spaces 11-16 would be at right angle to and at a higher level than the garden to no.47. A fence is proposed adjoining the parking spaces from which the land would fall away fairly steeply rising up slightly to the mutual boundary. With adequate planting and in the fullness of time, there would be screening to prevent loss of amenity to neighbouring occupiers in their garden. However, there could be unacceptable overlooking of the garden to no.47 in the intervening period. Overall, the dwelling on plot 8 and parking proposed at the higher level would result in harm to the amenities of the occupiers of 47 Drudgeon Way, contrary to CS policy CS17 and LP policy B1.

*Parking provision*

14. The proposal would be accessed off a residential road where the majority of dwellings have off-street parking. There may be some concern about the

- juxtaposition between spaces 10 and 11 and the turning space abutting space 16 but, within the overall access, parking and turning area, it would be possible to adjust the those spaces.
15. The development proposes 16 off-street parking spaces accessed from Beacon Drive. Apart from spaces 11-16, the spaces would front dwellings but not necessarily be associated with the property fronted. No highway objection has been raised to the level of parking provision which would be comparable or greater than proposed in the majority of earlier schemes.
  16. Nevertheless, CS policy 15j refers to a Car Parking SPD to be developed. This was adopted in July 2012 but prior to that the Kent County Council standards (KCC) would have required 18 spaces to include visitor parking. The July 2012 SPD requires 2 spaces per dwelling plus 3 visitor spaces for every 10 dwellings plus 1 van space. In addition, there would be a requirement for cycle and motorcycle spaces where there is no potential for on-plot parking. All the dwellings are accessed down steps and therefore not readily accessible for cycles or motorcycles. The proposal would not comply with either the KCC or the SPD standards.
  17. The appellants' frustration at this additional requirement compared to previously considered scheme is understandable. However, the proposal does not accord with the most recent policy that has been adopted since the previous appeal decisions. It is necessary for me to determine the appeal in accordance with the development plan unless material considerations indicate otherwise. In relation to the parking provision, the previous appeals do not provide material considerations such that the provision of the up to date development plan should be ignored. Lack of adequate parking would lead to parking on the adjacent roads and thereby potential for harm to the free flow of traffic. CS policy CS15 and LP policy B1 would not be met in this respect.

#### *Affordable housing*

18. CS policy CS19 seeks the delivery of 50% affordable housing on sites in rural areas. The site was purchased in 2000 before the economic downturn. Nevertheless, it is evident from the appellant's assessment of affordable housing viability that, under current market conditions, the proposed development would generate a negative land value which increases if affordable housing is included even when measured against the low existing use value. Therefore, the inclusion of 50% affordable housing in this proposal would render the scheme unviable.
19. The National Planning Policy Framework (the Framework) advises that it is necessary to ensure that the costs of requirements applied to a development should provide competitive returns to the developer to enable the development to be delivered. No other contributions are required with this proposal. Nevertheless, the characteristics of the site would result in higher than average construction costs.
20. The Core Strategy is recently adopted and found that 50% affordable housing in rural areas could be delivered and viable. However, there did not appear to be a viability assessment specifically related to this particular site when the Core Strategy was examined. Overall, from the assessment submitted, I consider that, in this particular proposal, the delivery of 50% affordable housing would not be viable. Having regard to Government policy in the

Framework, the harm to viability from the provision of affordable housing provides a material consideration to indicate that determination should be other than in accordance with CS policy CS19.

*Overall conclusions*

21. The proposal would make effective use of land within the rural village. The land was identified for residential use in the SHLAA. In this proposal, the development would not be viable with affordable housing. Nevertheless, having regard to all other matters raised, the harm identified to the character and visual amenities of the rural village, to prospective and existing occupiers' amenities and from inadequate parking provision, I conclude that the appeal should fail.

*Elizabeth Fieldhouse*

INSPECTOR