



Appeal Decision

Site visit made on 2 December 2025

by **Stewart Glassar BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 February 2026

Appeal Ref: APP/T2215/W/25/3373093

Former Landscape Services Depot, Broad Lane, Wilmington, Kent DA2 7AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Sovereign Services Kent Ltd against Dartford Borough Council.
 - The application Ref is DA/25/00121/FUL.
 - The development proposed is demolition of existing structures, erection of 9 dwellings (6 x 3 bed and 3 x 2 bed) with associated access, parking, landscaping and refuse/cycle stores.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing structures, erection of 9 dwellings (6 x 3 bed and 3 x 2 bed) with associated access, parking, landscaping and refuse/cycle stores at Former Landscape Services Depot, Broad Lane, Wilmington, Kent DA2 7AG in accordance with the terms of the application, Ref DA/25/00121/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. Following the submission of the appeal, a statement was prepared by officers on behalf of the Council. It outlined that if the application had been determined, the proposal would have been refused.
3. A subsequent report to the Council's Planning Board, seeking councillor approval for the officers' position was submitted to me after the deadline for the submission of information had passed. I therefore declined to accept this subsequent report and have not taken it into account in my decision. However, I have noted that the Planning Board endorsed the approach adopted by the officers.
4. There appears to be a slight inconsistency between the proposed first floor front elevations and floorplans for units 5-7. However, having regard to the other drawings I am satisfied that this has not prevented me from fully understanding the proposal or its effects in relation to the main issues.

Main Issues

5. Based on the Council's putative reasons for refusal I consider the main issues in this appeal are the effect of the proposed development on a) the character and appearance of the area; b) the living conditions of future occupants and neighbouring occupants with regard to overlooking; and c) biodiversity net gain.

Reasons

Character and Appearance

6. The appeal site is a former depot. A number of buildings remain on site. The site is set back from Broad Lane and is largely hidden from wider public views by the adjacent church building and the existing tree planting along the site's southern boundary. Located at the western end of the village and with the school playing fields providing a transition to the countryside beyond, the immediate area around the site benefits from a sense of spaciousness. Nevertheless, the proximity of the houses to one another on Broad Lane together with the width of road, means that the character is not a low density one.
7. The Council does not object to the site being redeveloped for housing per se and I have no reason to disagree. However, the Council is disappointed with some specific points of detail and in general with the overall design approach that has been adopted. It considers that improvements could be secured.
8. The proposed development would be relatively conventional in terms of its layout and appearance. The houses would have an uncomplicated design with a degree of uniformity in their shape and appearance. The prevailing vernacular is one of relatively simple character using a mix of external finishes, some of which would be reflected in the proposed houses. Overall, given the architectural context of the immediate vicinity, the houses would not appear visually jarring or overly dominant and thus not out of keeping with the area. Conditions could ensure materials and detailing were of an acceptable standard.
9. There are some large areas of hardstanding within the layout. However, utilising a range of different materials for these areas would avoid creating too harsh an environment and would help lift the overall quality of what would be created. I am mindful that the church sits within an area of unrelieved asphalt, but this does not enhance the area and so is not something to which the proposal should aspire.
10. The boundary treatment and backs of units 1-4 would be visible from Broad Lane albeit boundary planting would provide some visual relief and interest. Nonetheless, the church signifies the end of the linear frontage development along the northern side of the road. Thus, I do not find there to be an overriding need to replicate that on the appeal site in order to respect the sense of place. Views of the site from Broad Lane would also be mitigated by the setback position of the site.
11. Overall, whilst I do not doubt that the scheme as submitted could be improved upon, I find that it does respond sufficiently enough to the prevailing context to not cause harm to the character and appearance of the area. As the proposal would adequately respond to, reinforce or enhance the positive aspects of the locality it would not be contrary to Policy M1 of the Dartford Local Plan 2024 (DLP) which seeks to achieve good design for Dartford.

Living Conditions

Existing Neighbours

12. The site backs on to Nos. 1 and 2 Farm Cottages. The front elevations of the cottages themselves would be at 90 degrees to the new houses and set back from the rear of proposed units 8 and 9, thereby ensuring there would be no overbearing or overshadowing impacts. However, the proposed first floor rear

windows would offer some views over the front garden areas of these existing cottages.

13. These front garden areas are relatively small. Beyond the gardens is a vehicular access/turning/parking area. The gardens and area generally are already subject to some mutual overlooking from the front windows of the existing cottages and from an upper floor rear window of the cottage immediately to the north.
14. Units 8 and 9 would be set back from this area by virtue of their rear gardens. Their rear elevations would directly face the parking/turning area with the cottages at a slightly more oblique view to the east. The first-floor rear windows for units 8 and 9 would serve bedrooms. As such, the propensity for views from such a room would be less than a primary living space in the dwelling.
15. The proposal would inevitably allow some further views into the area to the front of the cottages which do not currently exist. However, having regard to the nature of the area, the position of the windows and the rooms that they would serve I am satisfied that they would not result in harmful overlooking or loss of privacy.

Future Occupiers

16. The internal site layout would result in the first floor front windows of units 4 and 7 having side-on views of the rear gardens of units 5 and 8 respectively. The respective distances between the first floor windows and garden boundaries would be some 12.2m and 13.8m.
17. The Council does not present me with any evidence of policy or supplementary documents which establish an expectation for separation distances in such instances. Similarly, the example quoted by the appellant from the National Model Design Code shows how privacy might be specified, not that the distances shown constitute any particular guideline. Thus, a planning judgement is required in this instance.
18. Dwellings and gardens being juxtaposed at 90 degrees to each other is not an uncommon arrangement for new developments. Furthermore, a degree of mutual overlooking can be expected from semi-detached and terraced properties. Future occupants would not therefore necessarily expect complete privacy. Nonetheless, they could reasonably anticipate that the most sensitive parts of the garden i.e. those areas nearest the rear of the house, would be free from excessive overlooking.
19. Given the separation distances, views into these gardens would generally only occur when occupiers of units 4 and 7 were near to the windows and purposefully looking directly downwards. It seems unlikely that someone would be looking out of one of these bedroom windows for a sustained period. Furthermore, it is also likely that use of these gardens (such as on warm days and evenings) would be likely to coincide with the occupants of units 4 and 7 also wanting to enjoy their own rear gardens.
20. Overall, the privacy enjoyed by users of the units 5 and 8 would be no worse than is commonly found in new housing layouts where the potential for over-viewing from the upper floor windows of neighbouring houses is typically found without being considered oppressive. In this case not only are there reasonable separation

distances but also there is space for some perimeter planting to take place if residents desire.

21. In addition to the above, concerns have also been raised in relation to the overall quality of the garden serving unit 5 given its size and the adjoining parking space. It is clearly a small garden but is of regular shape and would not be unduly enclosed or overshadowed by other houses or built form. Given its orientation it would receive sunlight, particularly in the afternoons and evenings. Overall, it would provide a usable outside space that would offer a reasonable level of comfort and privacy for future occupants. The development as a whole is said to comply with the Council's indicative guideline of 60m² of garden area per dwelling.
22. A larger parking space is located alongside the garden to Unit 5. However, in reality, the effect this would have on the garden environment would be no worse than that experienced by the occupiers of unit 8, who would have a number of parking spaces allocated to different houses alongside their western boundary. The Council has not objected to the arrangement of the parking alongside the garden to unit 8. In these circumstances the concerns regarding unit 5 appear unjustified.

Findings

23. Given my reasons above, I am satisfied that the proposal would not conflict with Policies M2 and M9 of the DLP which seek, amongst other things, to ensure that developments do not materially impact on neighbouring uses, and sufficiently mitigate impacts regarding overlooking, privacy and amenity space.

Biodiversity Net Gain

24. Planning Practice Guidance advises that where unauthorised degradation of onsite habitat has occurred between 30 January 2020 and the date of the planning application, the pre-development biodiversity value of the onsite habitat should be calculated based on the condition of the habitat on the date immediately prior to such degradation.
25. The key issue in this appeal is whether the existence of brambles on the site after January 2020, which were subsequently cleared, should have been reflected in the pre-development baseline calculations.
26. The aerial photographs provided by the parties are not conclusive as to how regularly clearance work on the site might have been undertaken. However, it seems that over a prolonged period, some clearance works did take place from time to time. The evidence before me therefore points towards the post 2020 works not being a one-off event. The appellant's ecologist clearly acknowledges what had occurred and there is no suggestion that the removal was being hidden from the Council.
27. As such, I am as satisfied as I can be that the removal of the brambles in this case did not go above and beyond what could be considered a part of the regular maintenance of the site. Consequently, I consider that the biodiversity value of the site has been applied correctly and that the development would provide the BNG set out within the metric supplied. Therefore, the scheme would be capable of meeting the mandatory requirements for a minimum of 10% BNG, in accordance with the statutory framework.

28. In these circumstances, given the scale and nature of the on-site net gain, it is considered reasonable that a suitably worded planning condition requiring a Landscape and Ecological Management Plan (LEMP) would secure the delivery and on-going management and maintenance of the net gain, as well as other on-site ecological enhancements.
29. Consequently, I do not find the proposal contrary to Policy M14 of the DLP which, amongst other things, requires a site's biodiversity value to be protected and enhanced and for this to be clearly demonstrated.

Other Matters

30. The Strategic Housing Land Availability Assessment (SHLAA) may have identified the site for 6 houses but there is no information before me to explain how that figure was reached. Furthermore, a figure in the SHLAA does not prevent schemes coming forward with greater numbers of units.
31. Interested parties have raised concerns regarding traffic and access arrangements. These did not form part of the Council's putative reasons for refusal. Furthermore, the Highway Authority did not raise any concerns, including in relation to the connection to the footpath, subject to the imposition of appropriate conditions. In the circumstances, I am satisfied that these aspects of the scheme can be addressed through the use of appropriate planning conditions.
32. Interested parties have also queried the proposal in relation to the Green Belt. However, the Council has confirmed that the scheme does not involve any development within the Green Belt and there is no substantive evidence before me that would lead me to a different conclusion.

Conditions

33. I have had regard to the conditions set out in the Council's submissions and relevant guidance on the imposition of conditions. Both parties have had the opportunity to comment on the conditions, and I have obtained the appellant's written agreement where it is necessary for the requirements to be pre-commencement.
34. In addition to the standard time limit, a condition listing the approved plans is necessary to provide certainty. However, given the slight inconsistency in the drawings for the front elevations of units 5-7, I have also imposed a condition requiring confirmation of those details.
35. Given the proximity of the site to a school and church and narrow access arrangements, a construction management plan is necessary. For similar reasons, conditions controlling hours of operation are necessary.
36. The use of the site as a depot means that contamination of the ground is possible and conditions to address this matter are necessary.
37. The site is in an area of archaeological interest and thus a condition to secure archaeological evaluation and investigation is reasonable and necessary.
38. To ensure the site does not harm the character and appearance of the area, conditions are required to address matters of landscaping and ecology, external materials including surfacing and lighting.

39. Given my conclusions in relation to the character and appearance of the development, further development to the houses themselves or within their curtilage could have adverse effects on the area or neighbours. As such, it is appropriate that the Council is able to fully consider such changes and so it is necessary for permitted development rights to be removed from the dwellings.
40. To ensure the development functions as intended, it is necessary to impose conditions regarding parking and turning layout, access visibility, cycle storage, water efficiency, adaptable buildings and waste.
41. Given that electric vehicle charging points now fall under building regulations, and in the absence of evidence to the contrary, there is not a planning reason to secure such matters through this decision.

Conclusion

42. Having considered the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions in the schedule below.

Stewart Glassar

INSPECTOR

Schedule of Conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing numbers:

Location Plan	- 2401-E-100 Rev F
Proposed Site Layout	- 2401-F-200 Rev M
Area Assessment	- 2401-F-400 Rev N
Proposed Site Layout	- 2401-P-200 Rev K
Proposed House Types	- 2401-P-500 Rev E
Proposed House Types	- 2401-P-501 Rev E
Proposed House Types	- 2401-P-502
Proposed House Types	- 2401-P-503
Proposed Elevations	- 2401-P-800 Rev D
Proposed Elevations	- 2401-P-801 Rev C
Proposed Details	- 2401-P-850

Drainage Statement provided by CTP Consulting
Preliminary Ecological Assessment- provided by KB Ecology
Biodiversity Net Gain Statement
Phase 1 Contamination Survey - provided by Ground and Environmental Services Ltd
Transport Statement provided by DHA
Biodiversity Net Gain Metric (Updated)
Bat Survey- Provided by KB Ecology
Planning Statement
Residential Space Standards Statement
- 3) Notwithstanding the approved drawings, prior to the commencement of above ground level works hereby permitted, detailed drawings of the first floor front elevation and floorplans of units 5-7 shall be submitted to and approved in writing by the local planning authority. The development shall be thereafter built in accordance with the approved details.
- 4) No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall stipulate a scheme for:
 - On site parking and turning areas for construction and delivery vehicle, site personnel and visitors;
 - Site security for construction phase;
 - Construction lighting and measures to minimise light pollution;
 - Details of public relations providing on site contact details in case of complaint, query or emergency;
 - timings of deliveries;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - the erection and maintenance of security hoarding;
 - measures to control the emission of dust, dirt, noise and vibration during construction including, but not limited to, wheel washing;

- a scheme for recycling/disposing of waste resulting from the construction works; and
- siting and details of the construction compound and buildings.

The construction works shall be carried out in accordance with the approved details at all times unless prior approval has been obtained in writing from the Local Planning Authority.

- 5) No development shall commence until an assessment of the risks posed by any contamination (including from the soil on site) has been submitted to and approved in writing by the local planning authority. The assessment shall include:
 - i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health;
 - property (existing or proposed);
 - adjoining land;
 - ground waters and surface waters;
- 6) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out before the development is occupied.
- 7) No development (including demolition) shall take place until:
 - (i) An archaeological field evaluation has been carried out in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority; and
 - (ii) Safeguarding measures to ensure the preservation in situ of important archaeological remains and/or further archaeological investigation and recording identified in the archaeological field evaluation have been undertaken in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority
- 8) No development above ground level shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - a full specification of all proposed tree and shrub planting has been submitted to and approved in writing by the local planning authority. The specification shall include the quantity, size, species, and positions or density of all planting, how they will be planted and protected and the proposed time of planting. The planting shall be carried out in accordance with the approved specification;
 - any earthworks showing existing and proposed finished levels or contours;
 - means of enclosure and any retaining structures;

- boundary treatments;
- hard surfacing materials, including for vehicle parking areas; other vehicle and pedestrian access and circulation areas;
- an implementation and management programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation and management programme.

- 9) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 10) No construction work shall take place on the site outside the hours of 0800 to 1800 Mondays to Fridays inclusive, and 0800 to 1300 on Saturdays with no working on Sundays, Public or Bank Holidays, unless otherwise agreed in writing with the Local Planning Authority.
- 11) Details of all new external window and door joinery and/or metal framed glazing shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The submitted details shall include depth of reveal, details of heads, cills, lintels, external finish and elevations at a scale of not less than 1:10 and horizontal/vertical frame sections (including sections through glazing bars) at not less than 1:2. The development shall be carried out in accordance with the approved details.
- 12) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development [or relevant phase of development] shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 13) No development above ground level shall take place until details and samples of the materials to be used in the construction of the external surfaces of the houses hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details / samples.
- 14) Prior to the occupation of any dwelling hereby permitted, details of the surfacing of the access road and cross-over to Broad Lane shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented prior to the occupation of any dwelling hereby permitted
- 15) The car parking spaces, turning areas and means of access shown on the Proposed Site Layout (2401-P-200 Rev K) shall be provided prior to occupation of the houses hereby approved. The parking spaces shown on the communal areas shall be marked out as shown on drawing number 2401-P-200 Rev K. The spaces shall then be kept available for that use at all times.

- 16) The development shall be designed and constructed to meet the requirements of Part M4(2) (Accessible and Adaptable Dwellings) of the Building Regulations 2010.
- 17) Prior to occupation of any dwelling hereby permitted, weatherproof storage for bicycles shall be provided for that dwelling in accordance with the details shown on drawing Proposed Site Layout (2401-P-200 Rev K). Such facilities shall thereafter be kept available for the storage of bicycles.
- 18) The development hereby permitted shall not be occupied until the Building Regulations optional requirement of a water consumption rate of no more than 110 litres per person per day has been complied with.
- 19) No part of the development hereby approved shall be occupied until visibility splays in both directions at the site access, as shown on drawing H-01 Revision P3 'Proposed Visibility Splays' in the DHA Transport Statement Final Report, have been provided with no obstruction over 0.6 metres in height. The visibility splays shall then be maintained thereafter.
- 20) No part of the development hereby approved shall be occupied until the path connecting the site to path PROW DR107 has been provided – including steps and ramp access - and is available for use in accordance with information on drawing 'Proposed Site Layout' (drawing number 2401-P-200 Rev K).
- 21) Prior to any landscaping works commencing on site a landscape and ecological management plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The plan shall accord with the measures outlined in the BNG metric and Preliminary Ecological Appraisal (KB Ecology, April 2024) associated with the planning application and shall include details of the following:
 - creation measures, including full details of all habitat creation contributing towards BNG on site;
 - Full elevations plans detailing the model and location of integral swift boxes in accordance with BS 42021:2022 (north/east facing, 4m from the ground and with unobstructed access);
 - Details of at least 2 x externally-mounted bat and bird boxes which are to be of durable construction and suitably located;
 - Locations of 13×13cm holes in close-board fencing provided for hedgehogs;
 - Locations of hedgehog houses;
 - Rolling, long-term maintenance measures covering up to a 30-year period; and
 - Details of responsible persons.The approved plan shall be implemented as described and retained thereafter.
- 22) Within twelve months of first use of the development hereby approved, photographic evidence of the implementation of such habitat creation and biodiversity enhancement measures as are required by condition (21) (the LEMP condition) shall be submitted to the local planning authority for approval. The approved measures shall be thereafter retained.
- 23) No development hereby approved shall be occupied until details of an external lighting scheme which shall be designed to minimise the impact on bats, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

- 24) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, B, C, D, or E of Part 1 of Schedule 2 to the Order shall be undertaken.
- 25) The development hereby approved shall not be first occupied until a circular economy statement (setting out measures to reduce the use of resources, minimise construction waste and to re-use existing structures where possible) has been submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved details.

***** END OF SCHEDULE *****