



Appeal Decision

Site visit made on 21 January 2021

by Michael J Muston BA(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 February 2021.

Appeal Ref: APP/Z5060/W/20/3256767

Garages and land to the rear of 300 High Road, Chadwell Heath RM6 6AJ

- 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 Mr Tariq of Tabu Properties Ltd against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref 19/01173/FUL, dated 8 July 2019, was refused by notice dated 17 February 2020.
 - The development proposed is a three storey building comprising 3 one bedroom flats.
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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 character and appearance of the area;
 - the effect of the proposed development on the living conditions of occupiers of neighbouring properties, with particular regard to privacy and outlook;
 - the effect of the proposed development on highway and pedestrian safety, emergency access and waste collection; and
 - whether the development would provide acceptable living conditions for occupants, with particular regard to the provision of private external amenity space.

Reasons

Character and appearance

3. The appeal proposal involves the erection of a three storey flat-roofed block of flats, with one flat per floor, on land to the rear of a car dealership, reached by an existing access road between two houses fronting High Road.
4. The flats would immediately adjoin the car showroom, which has a pitched roof. The proposed block would have a flat roof, which would be higher than the ridge of the showroom's roof. It would immediately adjoin the eaves of the showroom building, and would be about double the height above the ground of those eaves. This relationship would appear highly incongruous. The block of

flats would also appear as completely out of place, located behind existing houses, and adjoining the garden of 302 High Road. This juxtaposition would only be evident in public views when glimpsed from High Road in the gap between Nos 300 and 302. It would however be very prominent in views from the rear of nearby houses, including Nos 300, 302 and 304 High Street, and Nos 1 and 3 Saville Road.

5. The appellant argues that the new block would result in an enhancement of views over the site, as it would screen part of the utilitarian showroom building from view. However, in my view its relationship with its surroundings would make it appear as completely out of keeping with its surroundings and would be very harmful to the character and appearance of the area.
6. I conclude that the proposed development would have a significantly adverse effect on the character and appearance of the area, contrary to Policy CP3 of the Core Strategy (2010) (CS) and Policies BP8 and BP11 of the Borough Wide Development Policies Development Plan Document (DPD). These policies expect development proposal to, amongst other things, achieve high quality standards in relation to the design and layout of new buildings and spaces, and to respect and strengthen local character.

Living conditions – neighbouring properties

7. The proposed three storey block would be located directly behind the rear elevation of No 300 and would directly adjoin the bottom of the rear garden of No 302. It would include bedroom windows that would look directly towards the rear elevation and rear garden of No 300 and obliquely towards the rear elevation and rear garden of No 302. The distances involved should ensure that the level of overlooking involved in these relationships would not be unacceptable.
8. However, the flats also include balconies on their south-east corner, that would directly adjoin the bottom of No 302's rear garden. Any use of these balconies would unacceptably overlook that garden. The appellant accepts that there would be some overlooking into gardens, but argues that this would be no more than in a typical suburban area, where first floor windows overlook adjacent gardens. However, such relationships usually involve a view over a neighbouring garden as secondary to, and at a more oblique angle than, views over the garden belonging to the owner of the window. In this case, the entirety of the view from the balconies would be over adjoining land. Whilst it is not clear from the evidence before me what the use is of the land immediately behind the appeal site, the land to the east is No 302's rear garden. Such direct overlooking of it would be unacceptable, even if partially screened by deciduous trees in the summer months.
9. Because of its height, size and location, the proposed block would also be a very prominent feature when seen from the rear windows and rear gardens of Nos 300 and 302. It would appear as overbearing and have an adverse effect on the outlook from these houses and gardens.
10. I conclude that the proposed development would have a seriously adverse effect on the living conditions of occupiers of neighbouring properties, contrary to Policy BP8 of the DPD, which seeks, amongst other things, development that does not lead to significant overlooking or overshadowing.

Access road

11. The site's sole mean of access is via a track no more than 3 metres in width. The appellant makes the point that this service road has been in use for many years. However, the appeal proposal would change its purpose to being the access to three residential units, which would be very likely to generate more vehicular and pedestrian traffic than any existing use.
12. The appellant acknowledges that there may be an issue of "*a lack of segregation between the service road and pedestrians*" and I agree that this is indeed an issue. The service road is narrow for its entire length and there is nowhere for cars and pedestrians to easily pass each other. In addition, if vehicles meet each other whilst using the service road, one would have to reverse, with the possibility that this is a manoeuvre undertaken by the inbound driver, onto the footway and/or carriageway of High Road. I take the appellant's point that the Council has not made it clear exactly what highway problems would result from the use of the service road to access three flats, but it seems to me that this would be amongst them.
13. In addition, the service road would be too narrow to allow access by a fire engine or a refuse vehicle. It might be possible for occupiers of the flats to move their refuse containers on collection day each week to the end of the service road. However, this would be a considerable distance and is another indication of the unsuitability of this site for the proposed development.
14. I conclude that the proposed development would have an unacceptably adverse effect on highway and pedestrian safety, emergency access and waste collection, contrary to Policies BR11 and BP11 of the DPD, which, amongst other things, require safe, secure, convenient, accessible and direct access for pedestrians and cyclists to, from and within development, and the provision of waste facilities in appropriate locations on-site with appropriate access to these locations for site-servicing.

Living conditions of future occupiers

15. Policy BP5 of the DPD says that one bedroom flats will normally be expected to provide at least 20 square metres of private external amenity space. The only such space that would be available to the occupiers of the proposed flats would be the balconies, each of about 5 square metres. I accept that blocks of flats often provide limited or no external amenity space, and that a small balcony is often all that is provided. However, it is a function of the cramped nature of the proposed development that none of the flats has no other private external space available to its occupiers.
16. The appellant argues that there are a number of parks nearby. However, these are all at least one kilometre from the site and do not make up for the deficiency in private space on site. I conclude that the proposed development would, by a shortage of private external space, not provide acceptable living conditions for occupants, contrary to Policy BP5 of the DPD.

Other considerations

17. The appellant states that the Council cannot come close to demonstrating a five year supply of deliverable housing sites, with the appropriate buffer, and has failed the latest Housing Delivery Test. In his appeal statement, the appellant says that the shortfall of deliverable housing supply is such that the local

authority can only demonstrate a 3.7 year supply. None of these statements are disputed by the Council. In this situation, the provision of any additional housing is of considerable benefit. In the current appeal, three flats would be provided. The provision of three flats would only make a small contribution towards the housing shortfall in the Borough. However, the provision of new dwellings on a brownfield site is in line with the preferred approach to housing provision set out in the National Planning Policy Framework (the Framework). I attach significant weight to this as a benefit of the appeal scheme.

Planning balance and conclusion

18. As I concluded above, the appeal proposal would have a significantly adverse effect on the character and appearance of the area, contrary to Policy CP3 of the Core Strategy (2010) (CS) and Policies BP8 and BP11 of the DPD. These policies are in line with the emphasis in the Framework on achieving well-designed places, and I give this conflict very significant weight.
19. I have also concluded that the proposed development would have a seriously adverse effect on the living conditions of occupiers of neighbouring properties, contrary to Policy BP8 of the DPD. The Framework, in paragraph 117, says that planning decisions should safeguard and improve the environment and ensure safe and healthy living conditions. Policy BP8 is in line with the Framework in this respect and I afford this conflict significant weight.
20. I have concluded that the access road to the site would give rise to problems in relation to highway and pedestrian safety, emergency access and waste collection, contrary to DPD policies. These policies are in line with advice in the Framework and I give this conflict significant weight.
21. Finally, I have concluded that the appeal proposal would not provide acceptable living conditions for future occupiers of the proposed flats, contrary to Policy BP5 of the DPD. However, this is only on the basis of the flats having insufficient external amenity space, which reduces the weight which I attach to this conflict to moderate.
22. Neither main party has referred me to any housing policies in the CS. Notwithstanding this, the CS must contain a policy setting out the housing requirement for the Borough. This would provide support for the proposal. Despite this, I consider that the conflict with the other policies that I have identified and have set out above means that the appeal proposal conflicts with the development plan as a whole.
23. It is stated by the appellant and not disputed by the Council that the authority cannot demonstrate a five year supply of land and that, as a result, the 'tilted balance' set out in paragraph 11 d) ii of the Framework is engaged.
24. I attach significant weight to the provision of three additional housing units. However, I consider that the significantly adverse effect on the character and appearance of the area should be afforded very significant weight, and the other harms I have identified either significant or moderate weight. In my opinion, this degree of harm significantly and demonstrably outweighs the benefits associated with the appeal proposal, when assessed against the policies of the Framework as a whole.
25. I have concluded that the proposal would conflict with the development plan as a whole, and that the adverse effects of allowing the appeal to proceed would

significantly and demonstrably outweigh the benefits associated with the appeal proposal. Section 38(6) of the Planning and Compulsory Purchase Act (2004) says that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In the circumstances of this appeal, the totality of the other material considerations does not justify making a decision other than in accordance with the development plan.

26. For the reasons set out above, I conclude that the appeal should be dismissed.

Michael J Muston

INSPECTOR