
Appeal Decision

Site visit made on 16 February 2021

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2021

Appeal Ref: APP/Z5060/W/20/3253208
86 Faircross Avenue, Barking IG11 8QZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Kevin Donovan against the Council of the London Borough of Barking & Dagenham.
 - The application Ref 19/01439/FUL, is dated 3 September 2019.
 - The development proposed is change of use to allow 1 bedroomed dependent relative annex to become a separate residential dwelling.
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Decision

1. The appeal is dismissed and planning permission refused for change of use to allow 1 bedroomed dependent relative annex to become a separate residential dwelling.

Preliminary Matters

2. The Council refers to emerging policies of the Barking and Dagenham Draft Local Plan 2019-2034 Regulation 18 Consultation Version November 2019, which has not been submitted to the Secretary of State for examination. Given that the emerging plan has not been examined and is subject to change, I afford its policies limited weight.
3. On 19 January 2021, the Government published the latest Housing Delivery Test (HDT) and both main parties have been given the opportunity to provide comments.

Background and Main Issues

4. The Council did not make a decision on the planning application within the statutory period and this has taken the jurisdiction to determine the application away from the Council. The Council has submitted a decision notice dated 3 June 2020 (after the appellant's submission of the appeal), which sets out 2 reasons for refusal. Having regard to the information before me, I consider that the main issues are:
 - Whether the proposed development would provide acceptable living conditions for future occupiers, with particular regard to internal space; and,
 - The effect of the proposed development on the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance.

Reasons

Living conditions of future occupiers

5. Policy 3.5 of the London Plan 2016 states that housing developments should be of the highest quality internally and it seeks to ensure that new developments meet the requirements in the Technical housing standards - nationally described space standards (NDSS)¹ for new dwellings. Table 3.3 of the London Plan states that new dwellings include conversion and change of use.
6. The NDSS states that the minimum gross internal floor area (GIA) for a 2-bed 2-storey dwelling is 70 square metres (sqm), which should include built-in storage of 2sqm. Furthermore, the NDSS requires that a dwelling with two or more bedspaces has at least one double bedroom (measuring at least 11.5sqm). The minimum floor to ceiling height is 2.3 metres for at least 75% of the Gross Internal Area. However, the London Plan encourages a minimum ceiling height of 2.5 metres for at least 75% of the gross internal area to address the unique heat island effect of London and ensure adequate quality in terms of light, ventilation and sense of space.
7. The appeal form indicates that the floor space of the proposed development is 41sqm, which falls significantly below the minimum internal space standard set out in the NDSS. Furthermore, whilst no cross-section drawings have been provided, I observed that the sloping roof restricts the floor to ceiling height on the first floor, which further reduces the usable floor space. The proposed floor plans do not indicate built-in storage space, and a double bedroom of at least 11.5sqm would not be provided. Therefore, the proposal would not accord with the minimum internal space standards set out in the NDSS. Taken together, the above factors show that the proposal would not provide comfortable living space for future occupiers for day-to-day living activities. The proposed accommodation would feel cramped and it would not provide a high-quality living environment.
8. For the above reasons, I conclude that the proposed development would provide unacceptable living conditions for future occupiers. The proposal would therefore conflict with Policy 3.5 of the London Plan 2016 and Policy D6 of the Publication London Plan December 2020, which seeks to ensure that new homes have adequately sized rooms and convenient and efficient room layouts which are functional and fit for purpose. It would also conflict with Policy CP3 of the Planning for the future of Barking and Dagenham Core Strategy adopted July 2010 and Policies BP8 and BP11 of the Borough Wide Development Policies Development Plan Document Adopted March 2011 (the DPD), which, seek to achieve high quality standards in relation to the design and layout of new development and maintain residential amenity. Furthermore, the proposal would be contrary to paragraph 127 of the National Planning Policy Framework which seeks developments that provide a high standard of amenity for existing and future users.

Living conditions of neighbouring occupiers

9. The appeal site is located in a high density residential area, which predominantly consists of blocks of terraced housing with rear gardens. The existing 2 storey annex is located in a garden setting to the rear of the terraces in Faircross Avenue and Park Avenue. It is accessed through the passageway between Nos 86 and 88 Faircross Avenue.
10. The proposal would provide an additional bedroom. Whilst there would be some activity and comings and goings associated with the proposed dwelling, this would

¹ Technical housing standards – nationally described space standard. DCLG 2015.

be limited as it would provide only 2 bedspaces. The building maintains a reasonable degree of separation to neighbouring dwellings and so I do not consider that the proposed change of use from a residential annex to an independent dwelling would cause a noticeable increase in noise or disturbance to neighbouring occupiers.

11. For the reasons given above, I conclude that the proposed development would not cause material harm to the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance. The proposal would therefore accord with Policy 7.15 of the London Plan, Policy D14 of the Publication London Plan December 2020, and Policies BP8 and BP11 of the DPD, which seek to ensure that existing occupiers are not exposed to unacceptable levels of noise or general disturbance arising from the development.

Other Matters

12. The HDT results published 19 January 2021 show that the Council has a measurement of just 57% of homes delivered against its requirement over the previous 3 years. Therefore, the most important policies for determining the application are out-of-date in accordance with footnote 7 of the National Planning Policy Framework (the Framework). In these circumstances, paragraph 11(d) ii of the Framework is engaged.
13. The proposed dwelling would make a contribution towards addressing the substantial shortfall in the supply of new housing. Furthermore, long-term economic benefit would arise through the increased population and use of local services. These factors weigh in favour of the proposal, but the benefits would be limited because only one residential unit is proposed.
14. Set against these benefits, I have found that the proposed development would provide unacceptable living conditions for future occupiers. This conflicts with paragraph 127 of the Framework, which seeks to ensure that developments create places with a high standard of amenity for existing and future users. I attach significant weight to this harm.
15. I find that the identified adverse effect of the proposal would significantly and demonstrably outweigh the benefits outlined above, when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

16. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal is dismissed.

C Osgathorp

INSPECTOR