

Appeal Decision

Site visit made on 14 June 2021

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2021.

Appeal Ref: APP/Z5060/W/20/3264446

4 Cecil Avenue, Barking, IG11 9TA

- 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 Vishal Jain against the decision of the Council of the London Borough of Barking and Dagenham.
 - The application Ref 19/01010/FUL, dated 11 June 2019, was refused by notice dated 14 August 2020.
 - The development proposed a three bed maisonette and two studio flats.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect on the housing mix with regard to the supply of larger dwellings; and the effect on the living conditions of future residents with regard to the quality of the accommodation.

Reasons

3. The proposal is to subdivide the existing house into three units, consisting of a three bed maisonette on the ground and first floor, with basement storage; and two studio flats, one in the remaining area of the first floor, the second within the extended roof space.
 4. Policy BC4 of the Borough Wide Development Policies Development Plan Document 2011 (DPD) sets out the council's policy for conversions. It advises that the council is seeking to preserve and increase the stock of family housing in the borough and will resist proposals which involve the loss of housing with three bedrooms or more. The supporting text advises that a strict approach to preserving family housing; and particularly four bedroom homes, has been adopted given the current shortage in Barking and Dagenham (as highlighted in the Barking and Dagenham Housing Strategy 2007 - 2010). This proposal falls squarely within the above element of the policy and is contrary to it. The Council have retained a similar policy in their emerging Local Plan which has recently been published for consultation.
 5. Policy BC4 goes on to state that other proposals for flat conversions or homes in multiple occupation will only be considered acceptable if a number of criteria
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are met including, but not limited to, consideration of the number of other such uses; and changes to the character of the area. However, as the proposal relates to a property of three bedrooms or more, I am not satisfied that this second element of the policy is applicable.

6. The appellant has made reference to the London Plan 2021. Policy H2 requires that boroughs pro-actively support well-designed new homes on small sites through both planning decisions and plan-making in order to significantly increase the contribution of small sites to meeting London's housing needs; diversify the sources, locations, type and mix of housing supply; support small and medium-sized housebuilders; support those wishing to bring forward custom, self-build and community led housing; and achieve the minimum targets for small sites set out in the plan. In so far as this policy is relevant to conversions of existing residential properties, the policy's supporting text refers to incremental intensification of existing accessible residential areas by a range of methods, one of which is residential conversions where this results in net additional housing provision. It advises that these developments should generally be supported where they provide well-designed additional housing.
7. Policy H8(A) advises that the loss of existing housing should be replaced by new housing at existing or higher densities with at least the equivalent level of overall floorspace and that the redevelopment and intensification of London's existing housing will continue to play an important role in the evolution of London. The benefits of development proposals that involve the demolition and replacement of existing homes should be balanced against any potential harm. Policy H10 relates to housing size mix and advises that schemes should generally consist of a range of unit sizes. To determine the appropriate mix of unit sizes in relation to the number of bedrooms for a scheme, applicants and decision-makers should have regard to a number of matters including at (9) the need for additional family housing and the role of one and two bed units in freeing up existing family housing. It advises that boroughs can draw on the scenarios in the 2017 London Strategic Housing Market Assessment to understand housing mix requirements or to inform local assessments.
8. The London Plan policies are by their nature more strategic than those within the council's policy documents. The policies do not focus on the specifics of this proposal in the same way that DPD policy BC4 and the emerging Local Plan policy do. They do however offer some support for the intensification of sites to meet housing needs, if they include well-designed new homes in sustainable locations. It is clear however that changes in housing mix should be informed by evidence to understand local requirements. Neither party has provided up to date statistics with regard to housing mix. Whilst the appellant has identified the overall shortfall in the supply of deliverable housing sites, there is nothing before me to suggest that the requirements for family houses, of three bedrooms or more, have changed so significantly from those used to support the DPD, that the relevant policy should be disregarded. The publication of the consultation draft of the Local Plan which is based on updated figures and contains the same policy requirement, supports this view.
9. There is support from the London Plan policies with regard to intensification and the greater provision of housing, given that this is a highly accessible location. However, there is nothing to suggest that a stance different to that set out in the DPD and the emerging Local Plan should be adopted. The London

Plan and the DPD form part of the development plan and must be read together. I acknowledge that the proposal would provide a three bedroom replacement unit with a double and two single bedrooms which could be used as a small family home but the development plan, particularly given the supporting text to DPD policy BC4, does not support the loss of larger family homes or their replacement with small three bedroom units. Policy BC4 is consistent with the National Planning Policy Framework which requires that the size, type and tenure of housing needed by different groups should be assessed and reflected in planning policies.

10. Concerns have been raised with regard to the quality of the accommodation proposed, particularly in relation to the size of specific rooms. With regard to space standards, it is appropriate to use Technical housing standards – nationally described space standard (updated 2016) rather than those in DPD policy BP6. The smallest bedroom in the three bedroom unit exceeds the minimum area requirement but because of its shape, it is contended that it conflicts with the minimum width dimension. This is disputed by the appellant. Whilst the Council suggest that one of the studios is too small, the appellant's figures suggest that they both exceed the minimum standard for a one person studio with a shower.
11. Generally, I am satisfied that the units achieve or are close to the minimum prescribed numerical standards. However, the three bedroom unit is contrived in its design with both single bedrooms being of a long narrow form which would limit flexibility of use and light penetration, particularly to the first floor bedroom. That bedroom would be on a separate level with the second floor studio's kitchen and bathroom immediately above. I am not clear if it could be utilised as shown; or would have the reported area, as it appears to have no door at the top or bottom of the stairs which project into the room. The small shower room would be particularly constrained for a family dwelling. If the area of the cellar, which is not shown to be habitable accommodation, is discounted, the accommodation just exceeds the space requirement for the smallest of three bedroom units and whilst there may not be significant conflict with the space standards, the unit falls significantly short of being a well-designed new home as required by policy H2 of the London Plan.
12. The two studios just exceed the minimum standards for one person, one bedroom units. These would result in acceptable living conditions, provided they were occupied by the prescribed number of persons, although this cannot be controlled. It is evident that the proposal seeks to meet minimum numerical standards rather than pursuing the objective of providing well designed new homes.
13. The property has a rear garden that would only be directly accessible from the larger unit. It is suggested that the use of this space by the residents of the two studios could be secured by condition. No such condition has been suggested and I am unclear how or what the condition would seek to achieve. It is not realistic to consider that the residents of the studios would use this space given that they would have to leave by the front door, walk around the corner and along Cranleigh Gardens and then access the garden via the rear passageway. In any event, its use by the residents of the upper floors would result in a significant loss of privacy and amenity for the family unit unless it too was subdivided.

14. The proposal would result in the storage of bins and bicycles in the front forecourt. Whilst front forecourt bin storage appears to be a common feature of this area, the greater number of units would be likely to increase the number or size of bins. This would be a negative feature of the scheme. I am also not satisfied that the bicycle stands to the front would offer an attractive facility for users given the lack of shelter and their prominent and visible location.
15. Whilst this contrived and poorly conceived layout may not result in unacceptable harm for future residents and would generally meet minimum size standards, when taking all the above matters together, this approach does not represent or result in the high standard of inclusive design required by policy CP3 of the Core Strategy 2010 or policy H2 of the London Plan. This is particularly significant given the conflict with DPD policy BC4 and the potential quality of the family house that would be lost. The proposal also conflicts with the general design aspirations of the London Plan and the Framework.
16. Overall, the proposal conflicts with the specific policies of the development plan that relate directly to this form of development. Whilst there is support for higher densities in highly sustainable locations such as this, this support is not intended to undermine other policies of the development plan; nor conflict with the overall aspirations for well-designed new homes and good quality design in general. With regard to the development plan, the proposal is at odds with its specific policies and would result in harm to the housing mix which the policy seeks to prevent. The proposal also conflicts with the development plan's requirements for high quality housing and design. The proposal is also at odds with the similar requirements of the emerging Local Plan which, given its stage in the adoption process and given that the relevant policy requirements are brought forward from the DPD and are consistent with the Framework, can be afforded significant weight in these circumstances.
17. The proposal also conflicts with the Framework. This requires that the size, type and tenure of housing needed by different groups should be assessed and reflected in planning policies. Although it encourages the provision of more housing, with regard to the efficient use of land, it requires that account be had for different types of housing and the importance of securing well-designed, attractive and healthy places.
18. The appellant has raised a number of matters. I am unable to give weight to the pre-application advice received as I am unaware of the details on which the officer's comments were made. I note the marketing that has been carried out with regard to renting the property as a dwelling, although the advertising details have not been provided. Whilst I note the appellant's view as to why this has not been successful, the internal works that have maximised bedroom and bathroom provision at the expense of family accommodation must also be a significant factor with regard to its marketability. The evidence does not demonstrate that the property could not be used as a family dwelling in the future.
19. Whilst the appellant suggests that the property would be more efficiently used, this a policy matter that is also considered by the Framework as discussed above. Reference has been made to the Strategic Housing Market Assessment and Housing Needs Survey (Final Version March 2019) which the appellant suggests indicates that worsening affordability might increase the demand for

smaller units and in terms of larger units, these would likely become more suitable for sharing rather than family accommodation. This detailed information and analysis has not been provided. Similarly, no evidence has been provided to suggest that the previously reported shortfall in larger houses could be addressed by replacement small three bedroom houses. Under occupation is also suggested to be a potential concern and whilst this may be a consideration with regard to much larger houses, I am not satisfied that this is applicable to this property which although extended is a relatively modestly sized, former three bedroom terraced property, similar to many others in the area.

20. Reference has been made to an appeal decision relating to a property opposite which was granted permission for a change of use to a house in multiple occupation. There are clear differences in the two proposals but I accept that the principle, with regard to the protection of family homes, is common to both. Whilst the inspector had regard to the second element of policy BC4, I am not persuaded that it is relevant to this proposal.
21. Overall, I have found clear conflict with the development plan, the Framework and the emerging Local Plan. Although the addition of two small units of accommodation provides weight in favour of the proposal, this and the other matters put forward by the appellant do not outweigh the concerns raised with regard to housing mix. The layout seeks to meet minimum space standards and in doing so results in poor design quality. It fails to achieve the development plan and Framework's aspirations for high quality design and this also weighs against the proposal.
22. The appellant has drawn attention to the council's lack of a five year supply of deliverable housing sites. Paragraph 11 of the Framework is clear that decisions should apply a presumption in favour of sustainable development. Paragraph 11(d)(ii) includes a requirement that where the policies which are most important for determining an application are out-of-date, including situations whereby the local planning authority cannot demonstrate a five year supply of deliverable housing sites, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
23. The main policy concern relates to housing mix rather than housing supply. Notwithstanding this, the policy in this instance would have the effect of constraining the achievement of greater housing numbers. The benefits of this proposal relate to the provision of two net additional units. There would be adverse impacts with regard to housing mix in that a housing type which has been identified in the development plan and the emerging Local Plan to be in short supply would be lost, albeit that it would be replaced by a smaller three bedroom unit. I consider that this would represent considerable harm to the objectives of achieving an appropriate housing mix which would be at odds with the objectives of the Framework. I have also found the proposal to be at odds with the Framework's objective of achieving high quality design.

I conclude that the adverse impacts with regard to housing mix would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the Framework taken as a whole. The design

shortcomings provide further weight against the development. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR