



Appeal Decision

Site visit made on 13 September 2021

by Chris Couper BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2021

Appeal Ref: APP/Z5060/W/21/3268706

280 Lodge Avenue, Dagenham RM8 2JP

- 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 Littlecroft Properties Limited against the decision of the Council of the London Borough of Barking and Dagenham.
 - The application Ref 20/01249/FULL, dated 18 June 2020, was refused by notice dated 12 August 2020.
 - The development proposed is the change of use of the upper floors from one residential unit to two flats, the construction of a single storey building to the rear to create two additional residential units, an infill rear extension to the first and second floors, alterations to the shop fronts, and associated works.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of the upper floors from one residential unit to two flats, the construction of a single storey building to the rear to create two additional residential units, an infill rear extension to the first and second floors, alterations to the shop fronts, and associated works at 280 Lodge Avenue, Dagenham RM8 2JP in accordance with the terms of the application, Ref 20/01249/FULL, dated 18 June 2020, subject to the conditions on the attached schedule.

Procedural Matters

2. Since the application was determined, the National Planning Policy Framework 2021 ('Framework') and the London Plan 2021 ('LP') have been published. The principal parties were given an opportunity to comment on those documents during the appeal, and I have taken their representations into account.
3. During the course of the appeal, the Council granted planning permission on this site for the change of use of the upper floors from one residential unit to two flats, the construction of a single storey building to the rear to create one additional residential unit, an infill rear extension to the first and second floors, alterations to the shop fronts, and associated works (Ref: 21/00320/FULL) ('approved scheme'). That is a change in circumstances which, in accordance with the Planning Inspectorate Procedural Guide: Planning Appeals – England 2021 ('PINS Guide'), including its paragraphs 1.8 and 1.10, and Annex B, I have taken into account in determining this appeal.
4. The PINS Guide also states that the appeal process should not be used to evolve a scheme, and that what is considered by the Inspector should be essentially what was considered by the Council, and on which interested people's views were sought.

5. In this case, the appellant submitted additional drawings (nos. 3465 20 M and 3465 22 K) ('amended plans'). These show the two units in the proposed single storey rear building provided with a shower room instead of a bathroom, and the proposed infill rear extension finished with brickwork to match the host instead of vertical cedar cladding. Additionally, bedroom 2 at second floor would be reduced from 12sqm to 9sqm.
6. The proposed materials for the infill extension are the same as in the approved scheme, and the change from a bathroom to a shower room would not alter the layout or the size of either of those units. The proposed change to the size of bedroom 2 would not significantly alter that flat's layout and would not change its external appearance. I am therefore satisfied that my acceptance of the amended plans would not prejudice any parties' interests.

Main Issues

7. The main issues are:

- whether the occupants of the proposed units would experience satisfactory living conditions;
- the effect of the proposal on the vitality and viability of the Neighbourhood Centre; and
- the effect of the proposal on the character and appearance of the building and the area, having regard to the proposed facing materials on the infill extension.

Reasons

Living conditions

8. LP Policy D6 and Table 3.1, and the Technical Housing Standards published by DCLG in 2015 ('THS'), set out, amongst other things, a minimum gross internal area ('GIA') and bedroom sizes for housing. Following the proposed change from a bathroom to a shower room as depicted on the amended plans, each of the rear studio flats would meet the minimum GIA for a one person unit.
9. As a result of the reduced size of its second bedroom, the flat at second and third floor, would be a three person unit, which would also meet the GIA requirement. Other than a wardrobe, no built-in storage is depicted, but given its layout and the size of its bedrooms, the occupants could easily create such a space within it.
10. The studio flats would have an open plan. Given their layout, and that their GIA would be sufficient, the minimum bedroom sizes in the THS are not directly applicable. In reaching that conclusion I note that the approved scheme includes a 37sqm studio flat without a separate bedroom.
11. The studio flats would have a single aspect across a narrow passageway to a fence. However, each would have large south-facing windows, a partially glazed door, and generous rooflights. Moreover, the fence would have slatted panels to soften its appearance, and the studios' vaulted ceilings and rooflights would improve the sense of space and well-being within them.
12. The outlook from the terrace's rear upper floor windows would be principally over the roof of the proposed single storey building towards Mayesbrook Park.

- Whilst there may be some scope for angled views looking down through the rooflights into the proposed studio flats, a limited degree of overlooking is not uncommon in compact urban areas such as this, and it could be prevented on occasions, should the occupants so desire, through the installation of blinds.
13. All the proposed units could be reached from the front of the building through the communal access and lobby. A rear access is not uncommon in town centres, and its presence here would not diminish the scheme's legibility, or the sense of arrival at the front of the building.
 14. Policy BP5 of the Barking and Dagenham Borough Wide Development Policies Development Plan Document 2011 ('BDDP') sets out external amenity space standards for new dwellings. It states that these should normally be met, although there may be scope for a reduction where a site adjoins extensive parkland, and exceptions in town centres where this would help the Council achieve its housing targets.
 15. LP Policy D6 requires that a minimum of 5sqm of private outdoor amenity space should be provided for one or two person dwellings, with an extra 1sqm for each additional occupant.
 16. In this case, no external private amenity space would be provided. To some degree that would be mitigated by the scheme's location next to the large public open space at Mayesbrook Park, but that would not provide a convenient private space for the occupants to sit outside or perform domestic tasks. Whilst, in other regards, the quality of the proposed accommodation would be appropriate, this lack of private external space would, to a limited degree, compromise the living conditions for the future occupants.
 17. Consequently, there would be a conflict with LP Policy D6, and a limited conflict with BDDP Policy BP5. There would also be a limited conflict with those parts of BDDP Policy BP11, LP Policy D3, and Barking and Dagenham Core Strategy 2010 ('BDCS') Policy CP3 which, in general terms require development to deliver appropriate amenity with comfortable outdoor environments.
 18. There would also be a limited conflict with the Framework's requirement to promote healthy communities and to provide a high standard of amenity for existing and future users; and with the similar stance on housing quality standards in emerging Policy DM11 of the Barking and Dagenham Draft Local Plan 2019 - 2034 (Consultation Version) ('DLP'). However, as DLP Policy DM3 addresses specialist housing it is of little, or no, relevance on this issue.

Vitality and viability

19. BDCS Policies CM1, CM5 and CE1 collectively seek a sustainable balance to meet community needs, and encourage development and services that will help maintain and enhance the vitality and viability of neighbourhood centres; and state that within primary and secondary frontages retail will be maintained as the predominant ground floor use, with as much active street frontage as possible. LP Policy SD6 and Framework Chapter 7 promote the vitality and viability of centres, but also encourage the provision of housing within them.
20. The appeal site faces the shopping frontage within a neighbourhood centre. Its ground floor formerly contained two retail units, but as a result of this scheme the available retail space would be reduced in order to provide a front access, lobby and cycle storage for the flats.

21. I understand that the ground floor was last used as a hairdresser's salon in 2015, since when it has been vacant. As a result of this scheme, the building would retain a shop front, and whilst the retail space would be reduced in size, Hull and Company (Chartered Surveyors and Estate Agents) set out in a letter dated 15 August 2019, that this will make it more attractive to tenants.
22. Given that assessment, the length of time that the ground floor units have been vacant, and that a retail frontage would be retained, the scheme would not harm the vitality and viability of this neighbourhood centre. On this issue, it would not therefore conflict with BDCS Policies CM1, CM5 and CE1; LP Policy SD6; or with the Framework.
23. DLP Policies SP1, SP3 and DM8 take a broadly similar approach to those above, but given that the DLP does not form part of the development plan, I have given them limited weight in my decision. Finally, BDDP Policy BP10 which addresses housing density, is of little, if any, relevance on this issue.

Character and appearance

24. The host forms part of a terrace, whose rear elevation at first floor and above is largely finished in brick. The amended plans depict that the proposed infill extension would be finished in matching brickwork, rather than cedar cladding as originally proposed.
25. Consequently, and as the infill extension's dimensions and materials would be the same as in the approved scheme, having viewed the site from Mayesbrook Park, I find that the scheme would harm neither the character and appearance of the building, nor the area.
26. On this issue, it would not therefore conflict with those parts of BDDP Policies BP8 and BP11, which broadly require attractive architecture which has regard to local character; nor with LP Policy D4 and the Framework's requirement for good design; or with the similar stance in emerging Policy SP4 of the DLP.

Other matters

27. Whilst the Council refers to LP Policy SD3, as that promotes partnership working to realise growth potential beyond London, it is of little, if any, relevance to this proposal.
28. In its favour, the proposal would bring an empty property back into use, and would make an efficient use of the land to deliver additional housing in an accessible location adjacent to services and facilities. The scheme would also contribute towards the Framework's objective of significantly boosting housing supply, and I give substantial weight to its use of suitable brownfield land and a degraded building within a town centre, in accordance with its paragraph 120 and with LP Policy GG2.
29. I have no reason to doubt that this scheme on this small site could be completed quickly. The need to deliver housing is particularly acute here given that, as set out in the Housing Delivery Test ('HDT'), the Council's delivery over the previous three years has been substantially below that required.

Planning Balance, Conditions and Conclusion

30. I have found that the scheme would not harm the vitality and viability of this neighbourhood centre, and that it would not harm the character and

appearance of the building or the area. However, whilst each unit would be provided with appropriate internal space with an adequate outlook, the living conditions for the scheme's future occupants would be partially compromised by the absence of private external amenity space.

31. That said, given the HDT results, the 'tilted balance' at paragraph 11 of the Framework is engaged, and permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
32. In this case, the adverse impact of the scheme would be modest, and would not outweigh the significant benefits it would deliver. The appeal will therefore be allowed.
33. The Council has not suggested any conditions, and I have therefore considered those that it imposed in the approved scheme. Along with the standard time limit condition, in the interests of certainty, a condition is necessary requiring that the development be carried out in accordance with the approved plans.
34. Given adjacent commercial uses, and in the interests of ensuring appropriate living conditions for the scheme's occupants, a condition is necessary requiring the submission and implementation of a scheme of acoustic protection. Having sought the agreement of the appellant, I have phrased this as a pre-commencement condition as measures may need to be incorporated into the development from the outset.
35. For the same reason, given the site's context and the potential for contamination, a pre-commencement condition is necessary requiring an assessment of contamination risks to be carried out, and remediation to be undertaken in accordance with an approved scheme of measures where appropriate.
36. Finally, a condition in the approved scheme required the implementation of lighting to the rear of the property. However, in this case as all the units could be accessed from the front of the building, that condition is unnecessary.
37. For the above reasons, and having regard to all other matters raised, the appeal is allowed.

Chris Couper

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3472 01 E, 3465 02 A, 3465 03 B, 3465 20 M, 3465 22 K and 3465 23 G.
- 3) The materials to be used in the construction of the external surfaces of the development shall be as set out on the approved plans, with brickwork to match that used in the existing building.
- 4) No development shall commence until a scheme of acoustic protection of habitable rooms against noise has been submitted to, and approved in writing by, the local planning authority. The scheme of acoustic protection shall be sufficient to secure internal noise levels no greater than:

a. 35 dB LAeq in living rooms and bedrooms (07:00 hours to 23:00 hours) with windows closed; and

b. 30 dB LAeq in bedrooms (23:00 hours to 07:00 hours) with windows closed.

Additionally, where the internal noise levels will exceed 40 dB LAeq in living rooms and bedrooms (07:00 hours to 23:00 hours) or 35dB LAeq in bedrooms (23:00 hours to 07:00 hours) with windows open the scheme of acoustic protection shall incorporate a ventilator system which is commensurate with the performance specification set out in Schedule 1 (paragraphs 6 and 7) of The Noise Insulation Regulations 1975 (as amended), and the Acoustic Ventilation and Overheating Residential Design Guide January 2020. The approved scheme shall be fully implemented before the first occupation of the residential unit to which it relates and shall be maintained at all times thereafter.

- 5) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority.

If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority.

The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning

authority within 28 days of the report being completed and approved in writing by the local planning authority.
