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# Appeal Decision

Site Visit made on 22 July 2021

**by M Russell BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 October 2021**

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**Appeal Ref: APP/Z5060/W/20/3263726**

**Land to rear of 360 Becontree Avenue, Dagenham RM8 2TL**

- 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 Mrs Zaira Dadabhoy - Black Olive Properties Limited against the decision of London Borough of Barking and Dagenham Council.
  - The application Ref 20/01889/FULL, dated 23 September 2020, was refused by notice dated 12 November 2020.
  - The development proposed is new 1-bed 2-person bungalow.
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## Decision

1. The appeal is dismissed.

## Application for costs

2. An application for costs was made by Mrs Zaira Dadabhoy of Black Olive Properties Limited against London Borough of Barking and Dagenham Council. This application is the subject of a separate Decision.

## Preliminary Matters

3. In the period since the appeal was submitted the Government has published the revised National Planning Policy Framework (the Framework) July 2021 which is being brought into immediate effect for the purposes of decision-making. The London Plan (March 2021) (LP) has also been published during this period and replaces the policies of the 2016 London Plan which are referred to in the Council's decision. The main parties have been provided with an opportunity to comment on these events and I have taken any comments received into account as part of my decision-making.
4. The Council's decision notice refers to several policies within the Draft Local Plan (Regulation 19 Consultation Version, October 2020). However, as the Draft Local Plan may be subject to further change, I only attach limited weight to these policies.

## Main Issues

5. The main issues are the effect of the proposal on:
  - (i) The character and appearance of the area; and
  - (ii) The living conditions of the occupiers of neighbouring properties with particular regard to noise and disturbance.

## Reasons

### *Character and appearance*

6. Becontree Avenue forms part of the 'locally distinctive and historically important'<sup>1</sup> Becontree Estate, a close-knit residential area predominantly characterised by regular blocks of terraced dwellings set back from front boundaries. Dwellings in the area are more often served by long rear gardens some of which contain ancillary outbuildings. The appeal site has been segregated from the land and buildings serving the two-storey end terrace dwelling at No 360. The evidence before me also indicates that the site is now in separate title. Even so, the appeal site still forms part of the space to the rear of dwellings on Becontree Avenue consistent with the prevailing pattern of development on the Becontree Estate.
7. The position of the dwelling to the rear of the terraced dwellings and between long rear gardens would be significantly at odds with the well-defined pattern of development on Becontree Avenue. In addition, the footprint of the dwelling would fill the majority of the proposed plot. I also saw on my visit that a single storey rear extension and a detached outbuilding occupy most of the rear curtilage retained to serve No 360. In combination, the proposal and existing buildings to the rear of No 360 would result in a significantly greater density of development to that generally seen in the area. Taking all these factors into account, the proposal would appear cramped and incongruous within the predominantly open rear garden context of its surroundings.
8. My attention has been drawn to the Pre-Consultation Draft Good Quality Homes for all Londoners Supplementary Planning Guidance Modules A-D (March 2020) (draft SPG). The draft SPG sets out amongst other things guidance for assessing the potential for small housing developments including consideration of opportunities for backland infill sites. However, from the evidence before me the final version of the SPG has not yet been published. Therefore, I am unaware as to whether there are any outstanding objections or requirements for modifications to this document. In any case, this document is guidance and does not indicate that all backland infill development will be appropriate. Having regard to the site-specific context described, the siting and layout of the proposal would not positively respond to its surroundings in this particular instance.
9. I conclude the development would have a significantly harmful effect on the character and appearance of the area. In that regard, the development would conflict with Policies GG2 (Making the best use of land), H2 (Small sites), D3 (Optimising site capacity through the design-led approach) and D4 (Delivering good design) of the LP, Policies CP2 (Protecting and Promoting our Historic Environment) and CP3 (High Quality Built Environment) of the Barking and Dagenham Core Strategy (2010) (CS) and Policies BP2 (Conservation Areas and Listed Buildings) and BP11 (Urban Design) of the Borough Wide Development Policies Development Plan Document (2011) (DPD) which amongst other things require that new homes are well designed and that their layout positively responds to local distinctiveness with due regard to the existing street hierarchy. The proposal would also conflict with the requirements in the Framework for good design, and for developments to add to the overall quality of an area and to be sympathetic to local character.

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<sup>1</sup> Policy BP2 of the Borough Wide Development Policies Development Plan Document (2011) (DPD)

10. The Council's decision refers to Policy HC1 (Heritage conservation and growth) of the Draft London Plan Intend to publish version (2019). The main parties have not provided the published version of this policy from the London Plan 2021. Therefore, whilst this policy has not been material to my conclusions, this in any case does not diminish the conflict with the other policies of the development plan identified above.

*Living conditions of neighbouring occupiers*

11. I noted on my site visit that the appeal site and neighbouring rear gardens currently benefit from a pleasant sense of tranquillity given their position away from the road frontage. The positioning of the dwelling to the rear of neighbouring dwellings would introduce activities associated with the comings and goings of future occupants, their visitors and any associated vehicles into the rear garden setting. The immediate forecourt serving the dwelling would also be likely to be used for activities such as convenient bin storage outside of refuse collection days. Given the close proximity of the front door, immediate forecourt and driveway close to the boundary with No 358 Becontree Avenue, any noise and disturbance generated by these activities would be highly discernible from within the rear garden serving No 358. This would have an adverse effect on the living conditions of occupiers of No 358.
12. Any light emitted from the dwelling would be at ground floor level and to some extent would be mitigated by boundary treatments. Therefore, I am not convinced that light emitted from the dwelling would on its own be detrimental to neighbouring living conditions. Even so, this does not overcome the other harm identified under this main issue.
13. I conclude, the development would result in significant harm to the living conditions of the occupiers of No 358 Becontree Avenue with particular regard to levels of noise and disturbance. In that regard, the development would conflict with the aims to protect living conditions and the health and quality of life in Policy D14 (Noise) of the LP and Policy BP8 (Protecting Residential Amenity) of the DPD. It would also conflict with Paragraph 130 of the Framework which requires amongst other things that developments will function well and create places with a high standard of amenity for existing and future users.
14. The Council's decision also refers to Policies GG1 (Building strong and inclusive communities) and GG4 (Delivering the homes Londoners need) of the LP. The final versions of these policies now form part of the published LP. These policies do not specifically refer to the protection of neighbouring living conditions and therefore I have not identified specific conflict with them. Even so, this does not overcome the overall conflict with the DPD and the Framework.

**Other Matters**

15. My attention has been drawn to planning application and appeal decisions where the conversion of houses into small units has been resisted in order to preserve the stock of family housing in the Borough. However, the suggestion that this puts a greater emphasis on new build small dwellings being provided on windfall sites does not convince me that the harm identified under the main issues would be justified in this instance.

16. With regards to the dwellings which were granted planning permission at No 80 Fourth Avenue<sup>2</sup> and No 7 Park Drive<sup>3</sup>; these proposals related to corner plots. The dwelling allowed at No 41 Francemary Road<sup>4</sup> related to a side garden area on an end terrace. Therefore, these examples are not comparable to the site-specific context of the appeal site.

### **Planning Balance and Conclusion**

17. The appellant contends that the Council cannot demonstrate a 5-year housing land supply. This has not been disputed by the Council. My attention has also been drawn to the Housing Delivery Test (HDT) results published by the Government on 19 January 2021 which confirmed that the Council has not met its housing delivery requirements over the last 3 years with a HDT measurement of 57% when the number of homes required is compared with the number delivered over that period. In these circumstances paragraph 11 (d) of the Framework is engaged.
18. I have seen the evidence put forward by the appellant in terms of the high demand for dwellings for small households in the 2017 London Strategic Housing Market Assessment (SHMA) and the London Borough of Barking and Dagenham SHMA and Housing Needs Survey (2019). Policy H10 (Housing size mix) of the LP requires that decision makers have regard to such evidence. I also recognise that an efficient use of land can positively contribute towards the Government's objectives to significantly boost the delivery of housing. There is also support in the LP for the intensification and greater provision of housing.
19. Having regard to these matters, a two-person, wheelchair accessible dwelling in a sustainable location would make a limited but important contribution towards the Council's housing requirements. There would also be some modest economic benefits associated with the development of the site and the expenditure of future occupants in the local area.
20. However, the proposed development would conflict with the good design and high standard amenity requirements of the Framework. In those respects, the significant adverse impacts identified would significantly and demonstrably outweigh the limited benefits of the development. This provides a clear reason for refusing the development proposed in line with paragraph 11(d) (ii) of the Framework. For the same reasons, I have also found that the proposal would conflict with the development plan. Taken as a whole, I find that the proposal would not deliver a sustainable form of development. I therefore conclude that the appeal should be dismissed.

*M Russell*

INSPECTOR

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<sup>2</sup> LPA ref 17/01550/FUL

<sup>3</sup> Appeal ref APP/Z5060/W/18/3216774

<sup>4</sup> Appeal ref APP/C5690/W/18/3195099