



Appeal Decision

Site visit made on 19 January 2022

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st January 2022

Appeal Ref: APP/Z5060/W/21/3274323
213 Salisbury Avenue, Barking IG11 9XT

- 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 D Basi against the decision of London Borough of Barking and Dagenham Council.
 - The application Ref 20/01885/FULL, dated 22 September 2020, was refused by notice dated 4 November 2020.
 - The development proposed is Change of Use from Single Dwelling to Two Flats Including Single Storey Side Extension.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The National Planning Policy Framework was revised on 20 July 2021 (the Framework). I have had regard to the Framework, where relevant to my decision, and I am satisfied that this has not prejudiced any party, particularly as the revisions do not alter the policies upon which this appeal turns.
3. The Mayor of London published the London Plan 2021 (TLP) in March 2021 and this now forms part of the development plan for the Borough. Appeal decisions must be based on the policies from the development plan prevailing at the time of determination. With this in mind Policies 3.3, 3.5 and 3.8 of The London Plan (2016) and Policies H9 and H10 of the Draft London Plan (Intend to Publish version December 2019), referred to on the Decision Notice, no longer apply. I have referred to the adopted versions of Policies H9 and H10 and given that they appear to be unaltered from the previous version referred to, I am satisfied that no party would be prejudiced by me doing so.
4. I have been referred to Policies DMH2, DM11, DM16, DM25, SP3 and SP4 of the Draft Local Plan (Regulation 19 Consultation Version, October 2020) (DLP). Based on the information before me as part of this appeal, it does not appear that the DLP is at an advanced stage of preparation. Emerging policies are not therefore matters that have a significant bearing on my consideration of the merits of this appeal, particularly as there may be unresolved objections to contend with. Although I have had regard to the policies, in accordance with the requirements of Paragraph 48 of the Framework, the DLP has attracted limited weight in my consideration of the merits of the appeal.
5. The 2021 Housing Delivery Test (HDT) results were published on 14 January 2022. The latest results for the Borough do not alter the Council's position, with the presumption in favour of sustainable development contained within

paragraph 11 d) of the Framework being applicable. I have therefore not engaged further with the main parties in respect of this matter.

Main Issues

6. The Council's second reason for refusal suggests that the proposed window in the single storey side extension would promote overlooking into the rear of the premises. This is not precise, so the second main issue considers 211 Salisbury Avenue and its garden. Therefore, the main issues are:
 - the effect of the proposed development on the stock of family housing in the Borough; and
 - the effect of the proposed development on the living conditions of neighbouring occupiers, including their living standards and health and wellbeing, with regard to privacy, and noise and disturbance.

Reasons

Family housing

7. The Council suggest that only six percent of the homes in the Borough have four or more bedrooms. While this does not qualify the need for such homes, it does support the rationale within the Council's policies for protecting larger family homes, particularly Policy BC4 of the Council's Development Plan Document (March 2011) (DPD). The policy provides some flexibility to enable the conversion of homes to flats and houses in multiple occupation, but this relates to smaller homes. The inclusion of such an approach to the housing needs of the Borough is supported by Section 5 of the Framework.
8. The proposal would provide a 3-bedroom family home at ground floor and a smaller, 2-bedroom unit, at first floor within the existing 4-bedroom house. This would help to meet the demand for such housing in the Borough, particularly that which is accessible to services and facilities. The larger family home would be arranged with access to the garden. However, this would be as a consequence of the harmful reduction in the already limited stock of family homes in the Borough with four or more bedrooms.
9. I have determined the appeal on the basis of the accommodation currently available, not which was available prior to the dormer extension of the property to provide an additional bedroom. The appellant accepts that the existing house would accommodate a larger family than the family unit proposed at ground floor. Although the house may currently be underoccupied, there is no substantive evidence before me to demonstrate why this may be the case and, it would not be possible, with any degree of certainty, to guarantee that this would remain the case in the future, or that the proposed flats would be fully occupied due to their affordability. I have therefore afforded limited weight to these arguments.
10. Other flats have been permitted by the Council at Nos 177 and 179, but it is unclear whether they were directly comparable with No 213, in respect of the number of bedrooms prior to their conversion. In any event, the existence of similar conversions would not provide justification for a further development that I consider would be harmful for the reasons set out above.

11. In light of the above, I conclude that the proposed development would lead to the loss of a 4-bedroom family home, which would have a harmful effect on the stock of such housing within the Borough. Hence, the proposal would fail to accord with Policies CM1 and CM2 of the Council's Core Strategy (July 2010), Policy BC4 of the DPD, Policies SP3 and DMH2 of the DLP, and TLP Policies H9 and H10.

Living conditions

12. The outlook available from the window in the side elevation of the proposed extension would be to the east, primarily toward the side elevation of No 211, which does not incorporate any windows. The windows situated on the rear at first floor of No 211 would be likely to be protected due to the proximity of the proposed window to its side elevation and the resultant angle of vision up to its windows. The rear ground floor windows of No 211 are beyond the proposed window and face into its garden. The outlook toward the windows in the outbuilding at the rear of No 211 would also be very similar to that possible from existing windows. The boundary fence between the gardens of the properties would also protect privacy of No 211's garden. With these factors in mind, there would not be an unacceptable effect on the privacy of the occupiers of No 211, which the Council acknowledged in its Officer Report (OR).
13. The OR sets out that existing bedrooms within the property would be capable of accommodating seven persons. Although the proposal would create two separate households, it would also accommodate seven persons. There is no substantive evidence before me to demonstrate why the nature of the work, lifestyle, or behaviour of occupants of the proposal would be more harmful to the occupiers of neighbouring homes. Moreover, it is unlikely that the extent of noise generated through general activity and persons coming and going from the proposed flats would be significantly more harmful than what would be expected from the existing dwelling, were it to be fully occupied. The impact on noise transfer between Nos 213 and 215 could also be addressed by a suitably worded planning condition requiring details of noise insulation.
14. In light of the above, I conclude that the proposed development would not have a harmful effect on the living conditions of the occupants of neighbouring occupiers, including their living standards and health and wellbeing. Hence, the proposal would accord with such aims expressed in Policies BP8 and BP11 of the DPD and Policies DM11, DM16, DM25 and SP4 of the DLP.

Planning Balance

15. As outlined in Procedural Matters, the HDT results continue to indicate that, when applying footnote 8 of the Framework, the presumption in favour of sustainable development contained within paragraph 11 d) of the Framework applies. In such circumstances, permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
16. The proposal would make a modest contribution to the supply of housing within the Borough and one of the proposed flats would continue to have level access to the rear garden space. The occupiers of the proposed flats would also support facilities and services nearby. However, given the magnitude of the proposed development and the number of occupiers being similar between the

existing and proposed developments, these would only amount to social and economic benefits of limited weight. Furthermore, I ascribe negligible additional benefit to the fact that the facilities and services can be reached by various means of transport, as I consider it to be an absence of harm.

17. The Framework is clear that substantial weight should be given to the value of using suitable brownfield land within settlements for homes. The proposal relates to previously developed land but it would undermine the provision of large family homes in the Borough and thereby fail to take into account the identified need for such housing, a key component of the Framework's objective of making efficient use of land.
18. There would also likely be minor environmental benefits through improved water efficiency and other incidental energy improvements, but these would only amount to benefits of limited weight given the scale of development proposed.
19. The proposal would be compliant with relevant policies of the development plan in respect of living conditions. This absence of harm would neither weigh in favour nor against the appeal scheme. In terms of harm, the proposed development would not comply with development plan policies in respect of the protection of the stock of family housing in the Borough and I have indicated that the approach in Policy BC4 of the DPD aligns with the expectations of the Framework. I therefore give significant weight to the conflict with the relevant policies, except those in the DLP, which I have afforded limited weight for reasons set out earlier.
20. In light of all of the above, the adverse impacts of granting permission identified would significantly and demonstrably outweigh the benefits, 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 and the proposal should be determined in accordance with the development plan.
21. This leads me to an overall conclusion that the appeal scheme would not accord with the development plan, when considered as a whole.

Conclusion

22. The proposed development would be contrary to the development plan, when considered as a whole, and there are no other considerations which outweigh this finding, including the Framework. Accordingly, for the reasons given, I conclude that the appeal should not succeed.

Paul Thompson

INSPECTOR