
Appeal Decision

Site visit made on 30 November 2021

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 February 2022

Appeal Ref: APP/Z5060/W/20/3262958

28 D'Arcy Gardens, Dagenham RM9 6BS

- 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 Sandeep Kalyan against the decision of London Borough of Barking and Dagenham Council.
 - The application Ref 20/01282/FULL, dated 24 June 2020, was refused by notice dated 14 August 2020.
 - The development is "Proposed conversion of previously approved two storey side extension (Ref: 17/01318/FUL) into a 1 x bedroom self-contained dwelling, with internal and external demolitions and alterations."
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Procedural Matters

1. The description of development in the banner above is taken from the planning application form. I note that on the appeal form the appellant has used the description of development consistent with that on the Council's decision notice, being "proposed conversion of existing 2 storey side extension into a 1 bedroom dwelling" and I have determined the appeal on this basis.
2. I observed that the development described above has already been carried out. The side extension to number 28 D'Arcy Gardens and the associated works are complete and the building is independently occupied.
3. I note there are minor discrepancies between the submitted plans and the development that exists on site in terms of the position of the rear ground floor windows and the presence of an outbuilding in the rear garden of the new property. I have assessed the development as shown on the approved plans.
4. During the course of this appeal, the London Plan 2016 has been replaced with the London Plan 2021 which was adopted on 2 March 2021. Further revisions have also been made to the National Planning Policy Framework and the revised version was published in July 2021 (the Framework). I have invited the main parties to comment on these changes and have taken into account any responses from them in my determination of the appeal.
5. The emerging London Borough of Barking and Dagenham Local Plan has now been submitted for examination. I have also invited comments on the implications of its submission and have taken into account any responses received.

Decision

6. The appeal is allowed and planning permission is granted for the conversion of the existing 2 storey side extension into a 1 bedroom dwelling at 28 D'Arcy

Gardens, Dagenham RM9 6BS in accordance with the terms of the application, Ref 20/01282/FULL, dated 24 June 2020. The permission is subject to the following conditions:

- 1) Planning permission is granted in respect of the following approved drawings: BP01, LP01, 101, 102, 103 Revision B, 104.
- 2) Within 3 months of the date of this decision, details of the cycle parking facilities, as shown on drawing 103 Revision B, shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking facilities shall be designed and laid out in accordance with the London Cycle Design Standards. The approved cycle parking facilities shall be implemented and available for use within a further 3 months of their approval by the Local Planning Authority, and shall be permanently retained.

Main Issues

7. The main issues are:

- i) the effect of the development on the Borough's housing stock, with particular regard to the stock of family dwellings, and
- ii) the effect of the development on the living conditions of the occupants of 28 D'Arcy Gardens with particular regard to internal living space.

Reasons

Effect on the stock of family homes

8. Information submitted with the planning application suggests that works in connection with the development commenced in June 2020 in line with the 2017 planning permission, which would create a 3 bedroom family home, protected by local policies. The grounds of appeal dispute this and state that the 2017 permission was not commenced, but that the extension was built as a separate dwelling. On the basis that the appellant had originally stated that works had been commenced on the 2017 permission, and in light of the description of development applied for, I consider this appeal to concern the conversion of the 2017 permission that was not completed in accordance with the approved plans.
9. Information submitted with the appeal suggests that following its completion, the building it was registered with utility companies, registered for Council tax purposes and was the subject of a rental agreement in the late summer/autumn of 2020, with further energy and utilities inspections carried out in early 2021. The information available would appear to be consistent with the comments contained in the officer's report and third party representation and based on the evidence before me I am satisfied that the development was completed as a self contained dwelling, albeit unlawfully. It did not therefore, provide an extended family home in connection with number 28.
10. In this particular case number 28 remained unchanged by the works and maintained its status as a 2 bedroom house. The extended house did not contribute to the Borough's housing stock through being occupied by a family, and for this reason I find that the loss of the notional family sized house which would have been created by the extension, is acceptable. As such the

development does not cause unacceptable harm in terms of its impact on the local stock of family homes.

11. I find that the development does not therefore conflict with the aims of policy BC4 of the London Borough of Barking and Dagenham Borough Wide Development Plan Document (DPD) 2011 which seeks to resist proposals involving the loss of housing with 3 bedrooms or more. I have also not identified conflict with the aims of policies CM1 and CM2 of the Borough's Core Strategy 2010 which contain strategic policies to ensure development meets the needs of communities and emphasise housing growth targets, nor policy DM2 of the submitted Local Plan. The proposals comply with the aims of policies GG4, H8, H9 and H10 of the London Plan 2021 which relate to issues including housing need, existing housing, best use of housing stock and mix of sizes in residential development.

Living conditions of 28 D'Arcy Gardens

12. I appreciate the Council's concerns that without the extension number 28 sits below the floorspace threshold for a dwelling of its size and lacks the integral storage sought by the current local policies. Based on the evidence before me I understand that it did not become a family sized house due to the unauthorised works and the house continued to exist as a 2 bedroom house it did previously with the same standard of accommodation. Furthermore I understand number 28 to be occupied and making an active contribution to the housing stock and it is of a similar scale to those in the immediate area.
13. For this reason I do not consider that the development has caused unacceptable harm to the living conditions of the occupants of number 28. The development is not in conflict with policy BP6 of the London Borough of Barking and Dagenham Borough Wide DPD 2011 or policy D6 of the London Plan 2021 in this respect.

Conditions

14. I have considered the conditions put forward by the Council in light of the tests contained in the Framework. As the development has already been carried out and is occupied I do not find it necessary to impose a condition relating to the period of commencement. A condition is imposed relating to the submitted plans to provide certainty to the parties. A condition is also imposed to secure the details of the cycle parking shown on the plans, which has not yet been installed. I have amended the wording of this condition to reflect that the development is already occupied and to impose appropriate timescales to ensure it is delivered. The timescales are necessary because the development has already been carried out and it is not possible to use a negatively-worded condition to secure the approval and implementation of the cycle storage.
15. With regard to the recommended condition relating to accessibility, Planning Practice Guidance advises that conditions requiring compliance with other regulatory regimes, such as Building Regulations, would not meet the test of necessity and, as the building works are already complete, I have not imposed such a condition. The Council have suggested the removal of specified permitted development rights. However given the varied character of the area and the presence of other extended properties in the vicinity, I similarly do not find this to be necessary.

Conclusion

16. For the reasons discussed above, having taken account of the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be allowed.

C Shearing

INSPECTOR