
Appeal Decision

Site visit made on 3 February 2022

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 18 FEBRUARY 2022

Appeal Ref: APP/Z5060/W/21/3282429

65 Clementhorpe Road, Dagenham, RM9 4BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against the failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Winston Crawford against the decision of the London Borough of Barking and Dagenham.
 - The application Ref. 21/00832/FULL was dated 5 May 2021.
 - The development proposed is conversion of existing dwelling house into 1x2 bedroom and 1x1 bedroom flats.
-

Decision

1. The appeal is allowed and planning permission is granted for the conversion of existing dwelling house into 1x2 bedroom and 1x1 bedroom flats at 65 Clementhorpe Road, Dagenham, RM9 4BJ in accordance with the terms of the application, Ref 21/00832/FUL, dated 5 May 2021, subject to the conditions set out in the schedule at the end of this decision.

Preliminary matters

2. The council purported to issue a decision notice and a covering letter was sent to the applicant's agent. However, both the decision notice and the covering letter were undated. The appellant deemed the notice to be a nullity and therefore appeals. Nevertheless the refusal reasons indicated provide the main issue in this case.

Main Issue

3. The main issue is whether the loss of a family sized dwellinghouse is justified when viewed against the benefits arising from the development and other planning considerations.

Reasons

4. The application site is a two storey, semi-detached dwelling situated on the easterly side of Clementhorpe Road. It currently has 3 bedrooms, and is sits on a relatively wide plot for this area. The surrounding area is residential, with 2 storey dwellings, the majority being terraced. In my opinion the following matters are central to the decision on this appeal.
5. At all levels of planning policy, the National Planning Policy Framework (the Framework) July 2021, the London Plan (March 2021) and within the borough's development plan documents (Core Strategy, July 2010 and Borough Wide

Development Policies, March 2011), there is an emphasis on the urgent need to increase the housing supply.

6. Policy CM1 and CM2 of the Core Strategy seeks to ensure that the borough meets its housing targets and supports the delivery of a variety of housing types. Policy CC1 of the Core Strategy has as its main thrust the development of new build sites, rather than conversions. It specifies that major housing developments (10 units or more) will be expected to provide a minimum of 40% family accommodation, but notes that not all sites will be suitable for family sized accommodation. But it is Policy BC4 of the Borough Wide Development Policies DPD that I consider is the central development plan policy applicable here.
7. Policy BC4: Residential conversions and houses in multiple occupation, has as its preamble the objective to seek to preserve and increase the stock of family housing, with a resistance to the loss of housing with 3 bedrooms or more. The relevant part of the more explicit section with criteria, under the statement *"Other proposals for flat conversions or homes in multiple occupation (HMOs) will only be considered acceptable provided that: ... (the criterion that I consider is applicable to the issue) states:*
 - *The number of houses that have been converted to flats and/or HMOs in any road (including any unimplemented but still valid planning permissions) does not exceed 10% of the total number of houses in the road. No two adjacent properties apart from dwellings that are separated by a road should be converted".*
8. A Draft Local Plan was submitted for Examination on 20 December 2021. Since there will be objections to be considered and resolved, whilst it is a material consideration, at present full weight cannot be given to this document. However, I am told that Policy DMH 4 seeks to preserve and increase the stock of family housing in the borough, but I have not been supplied with a copy. The document that purports to supply that policy in fact provides the text of Policy DMH 2. Policy DMH 2: Housing Mix requires a range of unit sizes to be provided in accordance with its table which specifies (for private dwellings) 1 bed 39%, 2 Bed 26%, 3 bed 25% and 4+bed 10%. Bearing in mind what I have said about the stage that this plan has reached, I will take into account the indication that this gives about the need for family housing.
9. At the time of the purported decision on the planning application, the Housing Delivery Test (HDT) 2020 showed a delivery 57% of requirement. The 2021 HDT was published on 14 January 2022, showing a delivery of 66%. Therefore the presumption in favour of sustainable development comes into play as a result of paragraph 11(d)(ii) of the Framework (the 'tilted balance').
10. Turning to the quality of the dwellings proposed, the Technical Housing Standard states that the minimum gross internal floor area for a 1 bedroom, 2 person, 1 storey dwelling is 50 sqm, with 1.5 sqm of built-in storage space. For a 2 bedroom, 4 person, 1 storey dwelling, the minimum gross internal floor area is 70 sqm with 2.0 sqm of built-in storage space. Both flats would provide in excess of these required total internal areas. Furthermore, all bedrooms would comply with the requirements for a double bedroom with compliant storage space. Thus, as the officer's report acknowledges, the proposal provides a high standard of living for future residents, in accordance with development plan objectives. Furthermore, flat 2 would comply with the

required external amenity space for a 1 bedroom flat, whilst flat 1 would have slightly less than that recommended. However, the latter shortcoming would be marginal and on balance would not warrant refusal.

11. The appellant points to the Strategic Housing Market Assessment (SHMA) 2017 for the London Plan 2021 (LP) suggesting that this evidence base, informing LP Policies H2 and H10, supports this proposal to deliver in this location 1 and 2 bedroom homes for a growing number of newly forming smaller starter households at the affordable end. The appellant has also supplied a copy of the council's SHMA (updated to 2020) which indicates (paragraph 3.34) a housing need, other than for affordable housing, of 29% 1 bed, 50% 2 bed and 20% 3 bed units and just 10% 4 bed units.

Conclusions

12. Beginning with the development plan policies, at all levels the emphasis is on increasing housing supply. This is tempered by Policy BC4 which aims to preserve and increase the stock of family housing, with a firm resistance to the conversion of a house of 3 bedrooms or more into flats, with the proviso that such conversion will only be acceptable where the first bullet point criterion (set out in paragraph 7 above) is met. The new Local Plan recently submitted for Examination, a material consideration, sets out in Policy DMH 2 a range of unit sizes that are to be met (see paragraph 8 above) which sets the largest percentages of units to be 1 and 2 bed dwelling units.
13. Another material consideration is the Framework which provides, due to the council's poor performance in the Housing Delivery Test, the presumption under the 'tilted balance' of paragraph 11(d) (ii). Also a material consideration are the 2 SHMAs referred to in paragraph 11 above, which underpin Policy DMH 2. A further matter is the acknowledged quality of the dwellings proposed, which the officer's report described as providing a high standard of living.
14. The reliance in the purported refusal notice and its stated reason on the now dated development plan policies, produced what I regard as an unbalanced judgement. Simply giving the first bullet point of Policy BC4 some significant weight in the balance would have been telling. As far as I can see there is no exceedance of 10% of the total number of houses in the road, nor two adjacent properties having been converted to flats, nor is there anything in the documentation to suggest otherwise. This should mean that the appeal development could have been considered acceptable. Taking all the above matters into consideration, I find that, on balance, the advantages of the appeal proposal outweigh the loss of a 3 bedroom family house.
15. I have taken account of all other matters raised, including what is said about there being a huge waiting list for 3 and 4 bedroom houses in the borough, but for the above reasons I will allow the appeal.

Conditions

16. The council has indicated conditions that should be imposed on any planning permission in addition to the standard time limit for commencement of development. I will apply these for the following reasons: condition 2 is required for clarity and to provide certainty as to the development that is being permitted; 3 is to ensure that materials used in the construction will enable the development to fit into its surroundings in a visually satisfactory way; 4 is to

ensure adequate and secure cycle storage facilities are provided to encourage sustainable travel; and 5 is to ensure that the development would not affect the parking demand in the area and to discourage kerb-side parking for the safety and convenience of road users.

Terrence Kemmann-Lane

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 only be carried out in accordance with the following approved plans: drawing Nos.002, 003, and 004.
- 3) The development shall be constructed in accordance with the external materials shown on drawing nos.003 and 004.
- 4) Prior to occupation of the development, details of the cycle parking facilities, shall be submitted to and approved in writing by the Local Planning Authority. The submission should include details of the security, monitoring and access arrangements for the cycle parking facilities. The development shall not be occupied until the approved details have been implemented. Thereafter, the cycle parking facilities shall be permanently retained. These cycle parking spaces should be designed and laid out in accordance with the guidance contained in the London Cycling Design Standards.
- 5) Prior to the occupation of the development, details of the car parking facilities, shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved details have been implemented. Thereafter, the car parking facilities shall be permanently retained. These should be designed and laid out in accordance with the guidance contained within the London Plan.