



Appeal Decision

Site visit made on 21 February 2022

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 MARCH 2022

Appeal Ref: APP/Z5060/W/21/3283484

19 Cowbridge Lane, Barking IG11 8LQ

- 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 Kazi Arif against the decision of The Council of the London Borough of Barking and Dagenham.
 - The application Ref 21/00289/FULL, dated 17 February 2021, was refused by notice dated 20 April 2021.
 - The development proposed is for a new built single-family dwelling of 2-bedroom unit.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council are currently in the process of producing a new Local Plan, which is yet to be independently examined. At this stage, I afford it limited weight in my decision making and it does not alter my findings.
3. The Council's decision notice refers to the London Borough of Barking Residential Extensions and Alterations Supplementary Planning Document 2012. However, as a new dwelling is proposed rather than a residential extension, I have not had regard to this document.

Main Issues

4. The main issues are the effect of the proposed development on:
 - The living conditions of neighbouring occupiers at 19 Cowbridge Lane with particular reference to outlook and daylight;
 - The living conditions of its future occupiers, with particular reference to internal space standards and external space.

Reasons

Living conditions at 19 Cowbridge Lane

5. The appeal site sits immediately to the south of 19 Cowbridge Lane and currently forms part of the side and rear garden of No 19. It is proposed to erect an end of terrace two storey dwelling which would extend off the side of No 19.
6. The submitted drawings show that the development as proposed would be two-storey and extend along the shared boundary by three metres beyond the rear wall of No 19. No 19 has a garden patio area immediately behind its rear wall

- and its rear facing windows, closest to the shared boundary, include a kitchen at ground floor and bedroom above.
7. Occupiers of No 19 are most likely to engage in passive recreation such as sitting out or entertaining on the patio. When viewed from the windows and patio area at No 19, the limited separation, height, southerly orientation, and rearward projection of the appeal proposal would create a loss of daylighting to these areas. It would also create a visually intrusive development when viewed from No 19. This would be highly visible and dominant, thereby eroding the existing outlook and reducing daylight when viewed from No 19.
 8. The rear garden of No 19 would be reduced in size as part of the proposal and while it would still have a larger garden than the appeal proposal, this would not overcome the unneighbourly impacts of the appeal proposal.
 9. While the appeal site is in the same ownership as No 19 this does not alter my duty to consider the development's impact on current and future occupants of No 19.
 10. It has not been shown that permitted development rights exist at this appeal site or neighbouring dwellings. Even if they did, I have not been provided with information on the possibility or nature of any development taking place under permitted development. This therefore has limited bearing on my findings.
 11. I have also had regard to Policy D6 of the London Plan 2021 in coming to my decision.
 12. The proposed development would have a harmful effect upon the living conditions of No 19, with particular reference to outlook and daylight. It would therefore be contrary to Policies BP8 and BP11 of the Planning for the Future of Barking and Dagenham Borough Wide Development Policies Development Plan Document 2011 (BWDP), Policy CP3 of the Planning for the Future of Barking and Dagenham Core Strategy 2010 (the Core Strategy), Policy D4 of the London Plan 2021, Policies DMD1 and DMD6 of the Draft Local Plan and the National Planning Policy Framework (the Framework) These policies, amongst other things, address the need for high quality housing design and layout and to ensure appropriate living conditions for occupants.

Living conditions for future occupants

13. The Technical Housing Standards - Nationally Described Space Standards (NDSS) set out standards for adequately sized internal space. In this case, the NDSS state that a 2-bedroom, 2 storey dwellinghouse for 3 persons should have at least 70 square metres (sqm) of internal space. The drawings are annotated to show that the proposal would have 62sqm of floor space. The proposed development therefore fails to provide adequate living space consistent with the NDSS.
14. Policy BP6 of the Development Plan states that 2-bedroom dwellings should have at least 22sqm of Cooking/Eating/Living (CEL) areas. The Council state that the proposed development would provide 19sqm of CEL and therefore does not comply with Policy BP6. The appellant in their statement considers the CEL area to be 31sqm and therefore compliant with Policy BP6. The appellant has not provided any analysis as to how their proposed floor area is compliant with Policy BP6. In the absence of any analysis from the appellant as to which areas qualify as CEL and as it appears that the CEL would be closer to the

Council's figure based on the plans, I cannot be satisfied that the development proposal is compliant with Policy BP6 in this regard.

15. The Council are also concerned about the width of the kitchen and living room areas. However, I have not been made aware of any minimum standards in this regard. Given my findings above, there is no need for me to consider this matter further.
16. The development proposal would provide a private garden to the rear of the proposed dwelling to serve as external amenity space. This space would be accessed from the proposed ground floor living room. Policy BP5 of the Development Plan states that a 2-bedroom dwellinghouse should have at least 50sqm of external amenity space. The Council state that the appeal proposal would provide 38sqm of external amenity space and as such falls short of the policy standard.
17. Section 3 of the appellant's statement states the proposal would provide 38sqm of rear amenity space, however, the appellant considers space to the front of the proposed dwelling should be considered. This front space has not been identified and it falls outside the red line of the location plan. I have not been provided with details of its location, size, ownership or whether the appellant has permission to use it. This, therefore, carries no weight in my decision making. The level of external amenity space provision would therefore be insufficient.
18. While the proposal would provide housing on a brownfield site and this is a benefit, this would not outweigh the harm arising from inadequate living standards for future occupiers. The applicant suggests development approved elsewhere has occurred for similar development. However, I have not been provided with any details of these developments. This has very limited bearing on my decision. Although the Council raised no objection on design grounds, the absence of harm does not carry weight.
19. I therefore conclude that the proposed development would have an unacceptable effect on the living conditions of future occupiers with particular reference to internal and external space standards. The proposal is therefore contrary to the space requirements of BWDP Policies BP5 and BP6, Policy D6 of the London Plan, the NDSS and the Framework.

Planning Balance

22. The Council's current housing delivery test result shows that they delivered 57% of their housing target over the previous 3-year period. This means, amongst other things that the presumption in favour of sustainable development applies in decision taking. As such, paragraph 11 of the Framework should therefore be applied.
23. Paragraph 60 of the Framework refers to boosting significantly, the supply of housing and the provision of one additional unit would make a modest contribution in this regard. I also accept this is in an urban area where access to facilities is likely to be greatest.
24. While I afford the benefits modest weight the harm to the living conditions of future occupiers and the occupants at No 19 as identified above would be significant. I consider that the benefits set out above would not outweigh this significant harm. As a result, the environmental role of sustainable

development would not be achieved. When assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.

Other Matters

25. The appellant is concerned that the Council did not refer to specific paragraphs of the Framework in coming to its decision. The Council has, however, referred to the relevant policies of its development plan including its own local policies and those of the London Plan in arriving at its decision. Given development plan policies are material and decisions must be taken in accordance with the development plan, I am satisfied the appellant has not been disadvantaged. Furthermore, I have not been made aware of any material considerations that might indicate a decision not in accordance with the development plan.

Conclusion

26. For the above reasons, having regard to the development plan as a whole and all other relevant material considerations, the appeal is dismissed.

N Praine

INSPECTOR