



Appeal Decision

Site visit made on 12 April 2022

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 May 2022

Appeal Ref: APP/Z5060/W/21/3282939

231 Wood Lane, Dagenham RM8 3JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Mohamed Bharadia against the decision of the Council of the London Borough of Barking and Dagenham.
 - The application Ref 21/01332/FULL, dated 14 July 2021, was granted approval by notice dated 2 September 2021 subject to 6 conditions.
 - The development granted approval is 'construction of a 2 storey, 1x bedroom dwellinghouse including a single storey front and rear extension; and the construction of a front porch to the host dwelling and demolition of rear conservatory'.
 - The condition in dispute is No.4 which states: 'Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development falling within Classes A, B, C, D, E in Part 1 of Schedule 2 to that Order shall be carried out without the prior written permission of the Local Planning Authority'.
 - The reason given for the condition is: 'In the interest of the character and amenities of the local area'.
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Decision

1. The appeal is allowed and the planning permission Ref 21/01332/FULL for construction of a 2 storey, 1x bedroom dwellinghouse including a single storey front and rear extension; and the construction of a front porch to the host dwelling and demolition of rear conservatory at 231 Wood Lane, Dagenham RM8 3JU granted on 2 September 2021 by the Council of the London Borough of Barking and Dagenham, is varied by deleting condition 4 and substituting for it the following condition:
 4. Notwithstanding the provisions of Classes A, B, D and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions shall be carried out to the dwellinghouse hereby permitted and no buildings other than the bicycle store shown on approved plan 'Drawing 1001_PL03a' shall be erected within the rear garden of the dwellinghouse hereby permitted.

Preliminary Matter

2. The Council's officer report and decision notice refer to its Draft Local Plan (Regulation 19 Consultation Version, October 2020) (Draft LP), which has been submitted for examination. The officer report and decision notice state that significant weight should be assigned to emerging policies of the Draft LP on

account of its advanced stage of preparation. The appellant has relied upon the Draft LP in their submissions.

Background and Main Issues

3. The planning permission for the new dwelling included a condition preventing any development from being carried out which would otherwise be permitted under the provisions of Schedule 2, Part 1, Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). The Council's appeal submissions explain that the condition is necessary to protect the character and appearance of the area and, in respect of development permitted by Class E, to protect private garden space too. The intention to protect private garden space was not included in the decision notice, but the appellant has taken the opportunity to comment on this. The appellant objects to the condition because they consider it is unnecessary and irrelevant to the development.
4. Taking the above into account, the main issues are:
 - Whether the condition is necessary and relevant to the development permitted having regard to the character and appearance of the area; and
 - Whether the condition is necessary and relevant to the development permitted having regard to private garden space, in respect of development permitted under the provisions of Class E only.

Reasons

Character and Appearance

5. The appeal site is modest in size, forming the end of a small row of terrace houses. The new dwelling would occupy a thin strip of land which abuts a footpath and public green comprising part of a banjo cul-de-sac, which the Council has described as a unique feature of the Becontree Estate, which I saw to comprise neatly arranged inter-war houses with spacious frontages. The position of the new dwelling within the small plot would be very close to a neighbouring pair of semi-detached houses to the rear and would face into the banjo cul-de-sac.
6. The design of the new dwelling would incorporate a hipped roof, a porch to the front, a single storey rear projection, a bin store to the front and a bicycle store to the rear. Built development would therefore occupy the majority of the plot, leaving little space for further extensions or other buildings. The new dwelling would appear as a compact, but sympathetic addition to the terrace and banjo cul-de-sac, which accords with emerging Policies SP 2 and DMD 1 of the Draft LP and Policy BP11 of the Borough Wide Development Policies Development Plan Document (2011) (BWDP). These seek to promote high-quality design which makes a positive contribution to the character of the area, amongst other things.
7. Further extensions to the new dwelling or additional outbuildings could appear extremely cramped on account of the small plot, very close to the neighbouring house to the rear. This would be in the context of the open and spacious frontages of neatly arranged semi-detached houses forming the banjo cul-de-sac. They could therefore contrast sharply with the established layout of the

banjo cul-de-sac and could have a significant adverse impact upon the character and appearance of the area. The new dwelling would only be made acceptable in respect of its effect on the character and appearance of the area, and accord with the development plan, through the use of a condition preventing extensions and outbuildings which would otherwise be permitted development.

8. I am satisfied that it would be reasonable in the interests of the character and appearance of the area to prevent any extensions to the new dwelling, and to prevent any additional outbuildings being constructed within the curtilage of the new dwelling, which would otherwise be permitted development. Such development is permitted by Classes A, B, D and E of Schedule 2, Part 1 of the GPDO and a condition restricting those permitted development rights is therefore necessary and relevant to the development permitted in this regard.
9. Classes A and C of Schedule 2, Part 1 of the GPDO permit improvements and other alterations to dwellinghouses. Such development could be carried out to the new dwelling without substantially increasing its built form and without causing any significant harm to the prevailing character or appearance of the area. It would not be reasonable or necessary to prevent such works from being carried out to the new dwelling in the interests of the character or appearance of the area.
10. The existing dwelling forms part of the appeal site and is set in from the banjo cul-de-sac and would retain a larger garden than that which would serve the new dwelling. On account of its positioning, size and retained plot size, it would have a greater capacity for extensions, alterations and outbuildings without being likely to cause significant harm to the character or appearance of the area. It would therefore not be reasonable or necessary to prevent any development permitted under the provisions of Classes A, B, C, D or E of Schedule 2, Part 1 of the GPDO from being carried out to the existing dwelling, following the implementation of the planning permission, in the interests of the character and appearance of the area.

Private Garden Space

11. The new dwelling would be served by a private garden measuring 20 sqm in area with a bicycle store and the existing dwelling would be served by a private garden measuring 40 sqm in area. The Council's officer report refers to the standards set out in Policy BP5 of the BWDP, which state 1 bedroom flats should normally be served by 20 sqm of private external amenity space and 2 bedroom houses should normally be served by 50 sqm of private external amenity space.
12. The officer report also refers to Policy D6 of the London Plan which requires 1 – 2 person dwellings to be served by at least 5 sqm of private outdoor space and an extra 1 sqm should be provided for each additional occupant, where there are no higher local standards. Emerging Policy DMNE1 of the Draft LP does not specify a minimum standard, but it requires adequate amenity space to be provided and seeks to avoid developments relying on existing public open space.
13. An exception to Policy BP5 was made by the council in respect of the private external amenity space which would serve the existing dwelling on account of the shortfall being small and the proximity of large areas of public open space.

The appeal site is therefore reasonably close to existing public open space and both the existing and new dwelling would be served by gardens which would substantially exceed the minimum standard set out in Policy D6 of the London Plan. Any modest reduction of the existing or new dwellings' private garden space would not result in a reliance on existing public open space.

14. Any buildings permitted by Class E of Schedule 2, Part 1 of the GPDO would have to comply with size limitations. It would appear unlikely that any buildings permitted by Class E would significantly reduce the private garden space of the existing dwelling or the new dwelling to a degree which would conflict with Policy D6 of the London Plan or emerging Policy DMNE1 of the Draft LP. Although any reduction in garden space may create some conflict with Policy BP5 of the BWDP, I apply less weight to the standards set out in this policy on account of them not being carried forward in the Draft LP and the proximity of the appeal site to public open space.
15. Any restriction of permitted development rights in respect of Class E of Schedule 2, Part 1 of the GPDO would not therefore be reasonable or necessary to protect private garden space in this instance.

Condition

16. The National Planning Policy Framework advises that conditions should not be used to restrict permitted development rights unless there is clear justification to do so. I have found there would be clear justification for restricting permitted development rights in respect of extensions and outbuildings to the new dwelling, but not to the existing dwelling. Any restriction of other improvements or alterations to either dwelling would not be justified.
17. I will therefore replace the condition the subject of the appeal with one which only removes permitted development rights in respect of extensions and outbuildings to the new dwelling, as would otherwise be permitted under the provisions of Classes A, B, D and E of Part 1 of Schedule 2 of the GPDO.

Conclusion

18. For the reasons I have given, the planning permission should be varied as set out in the formal decision.

L Douglas

INSPECTOR