



Appeal Decision

Site visit made on 27 April 2022

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2022

Appeal Ref: APP/Z5060/W/20/3249128

68 Ivyhouse Road, Dagenham, RM9 5RR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Mohamed Bharadia against the Council of the London Borough of Barking and Dagenham.
 - The application Ref 19/01738/FUL, is dated 11 November 2019.
 - The development proposed is demolish existing garage and create a new 2 storey, single occupancy, studio home.
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Decision

1. The appeal is allowed and planning permission is granted to demolish existing garage and create a new 2 storey, single occupancy, studio home at 68 Ivyhouse Road, Dagenham, RM9 5RR in accordance with the terms of the application, Ref 19/01738/FUL, dated 11 November 2019, subject to the conditions in the attached schedule.

Preliminary Matter

2. This decision supersedes that issued on 18 May 2021 which was quashed by an Order dated 5 August 2021. The original decision is therefore of no effect although any relevant findings of the Inspector are a material consideration.

Applications for costs

3. The application for costs made by the appellant against the Council is the subject of a separate decision.

Main Issue

4. This is the effect of the proposed development on the living conditions of the occupiers of 1 Shortcrofts Road with particular reference to overshadowing.

Reasons

5. The appeal site is in the midst of the extensive Becontree Estate. The proposal is to extend the existing terrace by 4.5m to create a one-bedroom dwelling. This would be to the south of 1 Shortcrofts Road and sunlight currently received by that property would therefore be curtailed. In particular, there is a window in the side of No 1 that would face towards the proposal.
6. The appellant has provided sun shadow profile snapshots which indicate shadow lengths at different times of the year. However, these do not constitute a full assessment of the impact of the proposal on No 1 in terms of

annual probable sunlight hours or exposure to sunlight. Equally there is no technical evidence to demonstrate that the internal environment at 1 Shortcrofts Road would be unsatisfactory.

7. Based on the floor plans provided, the side window serves the dining area of a large, open plan space encompassing the kitchen and lounge. It therefore does not light a separate room. The overall consequences of any loss of sunlight would accordingly be reduced. The actual effect of the proposal would be transient as the sun moves across the sky and would also vary depending on the time of year and its angle. However, it is apparent that the window would still receive sunlight in the earlier part of the morning from the south-east and that the existing terrace is already a limiting factor. Because of the separation from the rear wall of the proposal, it is also likely that a shadow would not be cast across the window when the sun is higher in the sky.
8. Policy D6 of The London Plan indicates that sufficient sunlight should be provided to surrounding housing that is appropriate for its context. Policy BP8 of the Borough Wide Development Policies expects that development should not lead to significant overshadowing. Whilst some loss of sunlight would be experienced this would not be significant for the reasons given and would not result in unacceptable internal living conditions at the neighbouring property.
9. The rear garden of No 1 is small following the construction of a rear extension. Similar considerations to those outlined above apply to the effect on this area. Due to the relationship with the proposed development, this modest amenity space would still be sunlit at times. There is no clear indication that the level of sunshine experienced would be insufficient or that its continued usage would be prejudiced.
10. The Council's statement also refers to overlooking. However, there would be no first floor windows in the rear elevation of the proposal and so no loss of privacy would occur.
11. Therefore the proposed development would not harm the living conditions of the occupiers of 1 Shortcrofts Road. It would accord with relevant development plan policies that are concerned with housing quality and protecting residential amenity. The examination of the Draft Local Plan has commenced but is at a fairly early stage. In any event, the policies referred to do not propose a fundamentally different approach to such matters.
12. These findings are clearly different to those of the previous Inspector. I have exercised my own judgement and have had the benefit of the further representations made following the quashing of the original decision. In particular, the internal layout of No 1 has been provided. Furthermore, whilst the proposed building would cause the flank window to be in shadow for parts of the day, especially in the winter months, I attach greater importance to the overall effect on living conditions and whether this would be significant or not.

Other Matters

13. The original Inspector also referred to the overshadowing of the rear amenity space for the new house and commented that this would be private but cramped. The area falls short of the Council's own standards although within the parameters for private outside space of The London Plan. However, the

site is close to Parsloes Park which is a large open green space and so the Council raises no objection in this respect.

14. The Council currently has a housing land supply of 5.7 years. However, the latest Housing Delivery Test results show that only 66% of the housing requirement was delivered over the previous three years. Nevertheless, as the proposal is acceptable when judged against the development plan, there is no need to consider this further or to apply paragraph 11 d) of the National Planning Policy Framework.
15. No objections are raised by the Council in respect of the principle of development in this location, the quality of accommodation, design and transport. There is no reason to dispute these findings.
16. Reference is made to an appeal decision relating to a similar end of terrace development at 237 Grafton Road (Ref: APP/Z5060/W/20/3260545) as well as the Council's decision at 18 Stockdale Road. However, the relationship between the proposed new dwellings and adjoining properties in those cases was not identical to what is proposed here.

Conditions

17. The plans should be specified in the interests of certainty. To safeguard the appearance of the area, details of external materials and the treatment of the front garden area and the site boundaries should be provided. The scope for structural planting is limited and so there is no need to require that any greenery must be replaced. Due to the proximity of other residential occupiers the hours of construction should be restricted. Given that the size of the plot is more restricted than others in the surrounding area, the removal of permitted development rights is justified with the exception of other roof alterations.
18. The condition proposed regarding accessible housing duplicates the Building Regulations and the reason for it refers to a superseded policy from The London Plan. The need for this condition has therefore not been substantiated. Similarly, the policy cited in relation to tighter water efficiency standards is also from the former London Plan and so it is not evident that this requirement is part of the current development plan.
19. The appeal site is in residential use and there is no evidence that it is likely to be contaminated and so the need for a full investigation and risk assessment has not been shown. A material change of use from residential purposes would require planning permission in any event and so a condition requiring written approval from the Council would be of no effect.

Conclusion

20. The proposal would accord with the development plan and there are no other material considerations to outweigh this finding. Therefore, for the reasons given, the appeal should succeed.

David Smith

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos 1924_PL01, 1915_PL03 and 1924_PL04C.
- 3) No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved materials.
- 4) No development above ground level shall take place until details of the treatment of the front garden area and of all boundaries have been submitted to and approved in writing by the local planning authority. The approved details shall be carried out prior to the occupation of the dwelling hereby permitted or within timescales previously agreed in writing by the local planning authority.
- 5) 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 and E in Part 1 of Schedule 2 to that Order shall be carried out.
- 6) Other than internal works that are inaudible at the site boundaries, demolition, construction and associated activities to carry out the development hereby permitted shall not take place other than between 0800 to 1800 hours on Monday to Friday and 0800 to 1300 hours on Saturday and not at all on Sunday or on Public or Bank Holidays. Any works which are associated with the generation of ground borne vibration shall only be undertaken between 0800 and 1800 hours on Monday to Friday.