



Appeal Decision

Site visit made on 18 July 2022

by C Harding BA(Hons) PGDipTRP PGCert MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th August 2022

Appeal Ref: APP/Z5060/W/21/3285336

101 Whalebone Lane South, DAGENHAM, RM8 1AJ

- 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 Mrs Sehba Musharraf against the decision of the Council of the London Borough of Barking and Dagenham.
 - The application Ref 21/00347/FULL, dated 25 February 2021, was refused by notice dated 21 April 2021.
 - The development proposed is conversion of existing 6 bedroom dwelling house into 3 nos flats. 1 X 3 bed 1x 2bed and 1x1 bedroom flats.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are;
 - The effect of the proposed development upon the availability of family housing in the area, and;
 - Whether the proposed development would deliver acceptable living conditions for future occupiers with regards to access to suitable external space.

Reasons

The effect of the proposed development upon the availability of family housing in the area.

3. The appeal property is a mid-terrace property within a mixed residential and commercial area. At present the property comprises a single family-sized dwelling, with accommodation over three floors, and at the time of my visit, did not appear to be significantly under-occupied. The proposed development would lead to the property being sub-divided into three separate properties of one, two and three-bedroom configuration respectively.
4. The proposed development would lead to the loss of a six-bedroom property. The Barking and Dagenham Development Policies DPD¹ (BDDP) Policy BC4 seeks to preserve and increase the stock of family housing, and states that proposals which involve the loss of housing with three bedrooms or more will

¹ Planning for the future of Barking and Dagenham Boroughwide Development Plan Policies Development Plan Document (March 2011)

be resisted. In addition, Policy SP3 of the emerging draft Local Plan² seeks to ensure that the supply of self-contained housing and in particular, family housing is not undermined.

5. Whilst the proposed development would lead to the loss of a six-bedroom property, it would also include the provision of a three-bedroom property. Core Strategy³ (CS) Policy CC1 cites three-bedroom, four-bedroom and larger properties as constituting family accommodation.
6. Accordingly, although the size of the family home provided at the appeal site would reduce from six bedrooms to three, the proposed development would not undermine the supply of family housing as there would be no net loss, on the basis of the definition contained within the development plan.
7. The council have indicated that the level of demand for larger family homes is evidenced with the Strategic Housing Market Assessment 2020⁴ (SHMA). Notwithstanding this, whilst the SHMA does indicate that demand for housing with four or more bedrooms will increase in the period 2016-2039, it is expected to nevertheless remain a small proportion of overall demand. The SHMA also indicates a higher level of demand for large affordable dwellings in this period, but no evidence is before me to indicate that the existing property falls within this category. I also note that the SHMA indicates that there would remain a demand for housing of other sizes, including smaller units.
8. I therefore conclude that the effect of the proposed development upon the availability of family housing in the area would be acceptable, as the proposal would lead to no net loss of such properties. Consequently, I find no conflict with BDDP Policy BC4 and CS Policy CC1 which seek to protect the supply of family homes in the area, nor London Plan⁵ (LP) Policies GG4, H1, H2 and H9, or CS Policies CM1 and CM2, as well as emerging Local Plan Policy SPDG1 which reflect a general need to increase the supply of homes, and that a genuine choice of homes should be provided of varying and suitable sizes and tenures.

Whether the proposed development would deliver acceptable living conditions for future occupiers with regards to access to suitable external space.

9. I saw on my site visit that the appeal site contains a paved garden, and it is agreed between the parties that this space amounts to around 80 square metres (sq.m). At present access to this space is available from within the property via two doors.
10. The proposed plans indicate that one of these doors would be removed, and that access to the rear garden from within the property would only be available from the ground floor flat. External access to the rear garden would appear to remain available for the occupiers of the other flats, and the appellant has advised that the rear garden would split for all three flats to use.
11. No evidence has been provided with regards to how the outdoor space would be split between the three properties, and the submitted plans appear to indicate that

² London Borough of Barking and Dagenham Draft Local Plan 2037 – Second Revised Regulation 19 Consultation Version (Autumn 2021)

³ Planning for the future of Barking and Dagenham – Core Strategy (July 2010)

⁴ London Borough of Barking and Dagenham Strategic Housing Market Assessment and Housing Needs Survey (Original Version 2019 and Update February 2020)

⁵ The London Plan 2021

it would remain as a single communal space. As three properties would be sharing the proposed outdoor area, opportunities for private recreation or practical activity would be necessarily limited. Furthermore, at a size of 80sq.m, the space would be insufficient for the requirement of BDDP Policy BP5 which requires 40sq.m of space for each flat of two bedrooms or more, and 20sq.m for a single bedroom flat. Whilst the number of bedrooms would not have increased over the existing situation, it would not be unreasonable for three potentially unrelated households to desire more individual space than a single household when using a communal garden area.

12. It is stated by the appellant that the single bedroom flat would comprise a studio flat, however, the submitted plans indicate that this flat would contain a separate bedroom and this is reflected within the description of the development. Accordingly, I have considered it as such for the purposes of BDDP Policy BP5.
13. The appellant has also stated that there are public outdoor spaces within the local area that future occupiers could also make use of, however no detail of these in terms of quality or typology has been provided to me. Accordingly, I can only afford this limited weight.
14. The proposed development would result in unacceptable living conditions for the future occupiers of the proposed development in terms of access to outdoor space. Accordingly, it would be contrary to BDDP Policy BP5 which requires the proposed development to provide 100sq.m of outdoor space, and that outdoor space be private, useable, functional and safe, and LP Policy D6 that requires new development to provide high quality outdoor spaces.

Other Matters

15. It is common ground that the Council is unable to demonstrate a 5-year supply of deliverable housing sites, as required by the Framework. I return to this matter in my 'overall balance and conclusion' below.
16. The appellant has highlighted that the proposed development would provide sufficient car parking, that internal room sizes would be adequate, and that the proposed development could be reversed in the future. Even if I were to agree with the appellant on these matters, they would only be neutral factors, and would not weigh in favour of the proposed development.
17. The appellant has also indicated that the property could be used as a house in multiple occupation (HMO) with up to six bedrooms without the need for planning permission, and that this would represent a fallback position. The Council do not dispute that such a fallback position may exist.
18. However, it is not the role of the Inspector in this appeal to determine whether such a development would indeed be a lawful use of the property, and no evidence have been provided to me which would formally confirm the lawfulness of such a fallback position.
19. Additionally, an HMO would be a very different form of accommodation, no detailed plans relating to such a scheme have been provided and it is unclear whether a property of this size could lend itself to a conversion to an HMO containing just six bedrooms. Additionally, the appellant has not indicated this option would be pursued in the event of the appeal being dismissed.

Accordingly, it appears to be no more than a theoretical possibility, and I afford it only limited weight in terms of justifying the appeal scheme.

20. My attention has also been drawn to a number of other cases in the area. I have not been provided with the full details of these cases, however from information available to me, it would appear that none of these is directly comparable to the appeal scheme, as they involved properties in differing original configuration, and proposing different forms of sub-division. In particular, I note that none of them related to the loss of a six-bedroom dwelling. In any case, I have come to my own view on the appeal proposal rather than relying on the approach taken by the Council in granting permissions elsewhere.

Overall Balance and Conclusion

21. Since the Council is unable to demonstrate the supply of housing sites as required by the Framework, I consider the most important policies to be out-of-date and am taken, in regard to the specific circumstances of the case, to the mechanisms of paragraph 11 d) ii).
22. I have found that the proposed development would give rise to unacceptable living conditions for future occupiers. It would be contrary to the development plan in this regard, and the aims of the Framework which recognises that new development should provide high quality places within which to live and work. I ascribe this harm significant weight. Set against this, the provision of two additional dwellings would make a positive, albeit modest, contribution towards boosting housing supply. There would also be other social and economic benefits in terms of supporting businesses and services in the local area. These would however also be limited by the scale of the proposed development. For this reason, I afford them moderate weight.
23. With this in mind, the adverse impacts of granting a planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
24. The proposed development would conflict with the development plan and there are no material considerations, including the Framework, that would indicate a decision other than in accordance therewith. The appeal should therefore be dismissed

C Harding

INSPECTOR