



Appeal Decision

Site visit made on 16 August 2022

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 OCTOBER 2022

Appeal Ref: APP/Z5060/W/21/3290012

68 Ivyhouse Road, Dagenham RM9 5RR

- 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 Bharadia against the decision of the Council for the London Borough of Barking and Dagenham.
 - The application Ref 21/01042/FULL, dated 3 June 2021, was refused by notice dated 4 August 2021.
 - The development proposed is described as a "proposed 1 bed 1 person dwelling."
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Decision

1. The appeal is allowed and planning permission is granted for a proposed 1 bed 1 person dwelling at 68 Ivyhouse Road, Dagenham RM9 5RR in accordance with the terms of the application, Ref 21/01042/FULL, dated 3 June 2021, subject to the conditions in the attached schedule.

Applications for costs

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

Preliminary Matters

3. The Council has confirmed that they considered the proposal on the revised plans that were submitted during the application process. I will do the same and will consider those plans referenced on the decision notice.

Main Issue

4. The main issue in this appeal is the effect of the proposed development on the living conditions of the occupiers of No 1 Shortcrofts Road with particular reference to overshadowing.

Reasons

Living conditions of adjoining occupants

5. The appeal site occupies a prominent corner plot at the junction of Ivyhouse Road and Shortcrofts Road. The surrounding area is mainly residential with predominately 2-storey terrace dwellings creating an overall suburban feel. The appeal proposal would provide an additional residential unit as part of a two-storey side extension to the existing property. The proposed extension would replace an existing flat roofed garage that is positioned to the side of the existing dwelling with 1 Shortcrofts Road located to the rear of the existing garage.

6. Policy D6 of The London Plan adopted March 2021 (LP) indicates that sufficient sunlight should be provided to surrounding housing that is appropriate for its context. Policy BP8 of the Barking and Dagenham Borough Wide Development Policies Development Plan Document adopted March 2011 (DPD) expects that development should not lead to significant overshadowing.
7. The proposal would be roughly to the south of the dwelling at 1 Shortcrofts Road and the dwelling would be higher than the existing garage. As such, the building would cast a longer shadow towards that neighbouring property and its garden area. It was clear from my visit to the site, that the ground floor windows in the flank elevation of No 1 already experience some overshadowing during the morning hours due to the proximity of the existing property at the appeal site. However, from the details before me it is clear that the ground floor at No 1 is an open plan kitchen/diner/living room that benefits from a dual aspect, with windows serving the front and the rear of the property. Even if there were some interruption of sunlight reaching that room, the other window serving that room would be unaffected.
8. Furthermore, the submitted sun shadow profile snapshots showing the shadow effect of the proposed dwelling on No 1, indicate that in summertime there would be no shadow cast over No 1 or its garden. As such it is unlikely to have a significant loss of light through overshadowing above that currently experienced. In winter, however, in the afternoon when the sun is lower in the sky, there would be some overshadowing of the flank elevation. At that time of day and season this would not, however, be harmful to the living conditions of occupants of this property, given the existing relationship, relatively short time frame and dual aspect nature of the living conditions.
9. The Council has not submitted any evidence to counter the findings of this study, and what has been submitted by the appellant reinforces my view that any over-shadowing caused by the proposal would not be significant. I am also aware of the previous decision on the site and the re-determined appeal¹, following the quashing of the original appeal decision, which proposed a building closer to No 1 than that under the current scheme.
10. With regard to the main issue, I conclude that the proposal would not result in harm to the living conditions of the existing occupiers of the adjoining dwelling with particular reference to overshadowing. The scheme would be compliant with LP Policy D6 and DPD Policy BP8 which amongst other things, are concerned with housing quality and protecting residential amenity. The proposal is also consistent with the advice in the National Planning Policy Framework 2021 (the Framework), which amongst other things, seeks high quality design and a good standard of amenity for all existing and future occupants of buildings.

Other Matters

11. I have had regard to a previous appeal decision at the appeal site. Whilst the main issue is similar, nevertheless I have determined this appeal on its own merits and based on all the evidence before me.
12. The principle of the scheme is not in dispute. The proposal would also make a small but valuable contribution to the provision of housing required by Barking

¹ Appeal Ref: APP/Z5060/W/20/3249128

and Dagenham. The Framework requires a significant boosting of the supply of homes and the LP emphasises the importance of small sites in meeting housing needs.

13. I have had regard to the decisions at 237 Grafton Road and 18 Stockdale Road including the allowed appeal decision² for a similar development as highlighted by the appellant and the Council. These developments may have some design similarities however based on the information I have about these other cases; the orientation and context would appear to be different. The character of each site and how these relate to the living conditions of existing occupiers also varies. Each scheme needs to be considered on its own merits and circumstances.
14. Several other matters have also been raised by interested parties and I have taken them all into account. These include matters such as amenity space, the 5-year supply of deliverable housing sites, the planning balance and application of paragraph 11 d) of the Framework, and the previous quashed and redetermined appeal decision. However, whilst I take these representations on board, I have not been presented with compelling evidence that would lead me to a different overall conclusion that the appeal should be allowed.

Conditions

15. I have considered the Councils suggested conditions having regard to the tests set out at paragraph 56 of the Framework. As a result, I have amended some where necessary, or for the sake of consistency, brevity, or clarity. The numbers given in brackets (X) refer to the condition being imposed, with the order being prescribed by the time when the condition needs to be complied with.
16. In addition to the standard time limit condition (1), I have imposed a condition specifying the approved plans for the avoidance of doubt and in the interest of certainty (2). I have also attached a condition requiring the use of matching materials in the interests of a good quality appearance to the development (3). The scope for planting is limited within the appeal site. The need therefore to provide soft treatments to the front garden area and the site boundaries should be provided to protect the character and appearance of the area (4). In order to ensure that there is appropriate cycle parking and storage I have imposed a condition requiring its provision (5). The restricted nature of the plot requires the removal of permitted development rights to protect the character and appearance of the area, with the exception of other roof alterations (6). Due to the proximity of other residential occupiers the hours of construction should be restricted in the interests of the living condition of these occupiers (7).
17. I have not imposed conditions relating to M4(2) compliance; water efficiency and acoustic protection since these regulations are controlled under the separate Building Control legislation, as such planning conditions would be unnecessary. Nor have I imposed the condition requesting details of a construction logistic plan given the relatively minor nature of the scheme it is unlikely to affect amenities or highway safety, as such it is also unnecessary.
18. 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

² Appeal Ref: APP/Z5060/W/20/3260545

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

19. For the reasons given I conclude that the appeal should succeed.

Robert Naylor

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 be carried out in accordance with the following approved plans: 1524_PL01, 1524_PL02, 1524_PL03a and 1524_PL04a.
- 3) The materials to be used in the external surfaces of the extensions hereby approved shall match those of the existing dwelling.
- 4) No part of the development hereby permitted shall be occupied 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) No part of the development hereby permitted shall be occupied until the cycle storage provision as approved shall be implemented and retained thereafter for the lifetime of the development.
- 6) 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.
- 7) 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.