



Appeal Decision

Site visit made on 7 September 2022

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2022

Appeal Ref: APP/Z5060/W/22/3296524

144 Marston Avenue, Dagenham RM10 7LJ

- 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 Valeri Kalatchev against the decision of London Borough of Barking and Dagenham Council.
 - The application Ref 21/02160/FULL, dated 30 November 2021, was refused by notice dated 24 January 2022.
 - The proposed development is described as "The proposal is to subdivide the plot to create a new self contained two bed house by extending and modifying the existing garage attached to no 144 Marston Avenue. The garage will be extensively remodelled, extended to the rear and a new narrow first floor constructed above part of the garage. A new pitched hipped roof will be constructed above to match the existing roof pitch and design."
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Decision

1. The appeal is allowed and planning permission is granted for development as follows: "Subdivide the plot to create a new self contained two bed house by extending and modifying the existing garage attached to no 144 Marston Avenue. The garage will be extensively remodelled, extended to the rear and a new narrow first floor constructed above part of the garage. A new pitched hipped roof will be constructed above to match the existing roof pitch and design", at 144 Marston Avenue, Dagenham RM10 7LJ in accordance with the terms of the application, Ref 21/02160/FULL, dated 30 November 2021, and the plans submitted with it, subject to the conditions in the schedule below.

Preliminary Matters

2. A modified description of development was used by the Council on the decision notice. However, I am unclear whether this was agreed by the applicant and it differs from the description on the application form, notably in terms of the extent of proposed works to the existing garage. Therefore, in the banner heading and formal decision above I have used the description of proposed development as originally provided on the application form. However, I have omitted wording which is solely descriptive in nature and does not relate to proposed development.
3. Although no applicant name was provided on the application form, the appellant's name was confirmed as the appropriate party during consideration of the appeal and is included in the heading above.
4. The reason for refusal refers to conflict with policies in the Draft Local Plan (Regulation 19 Autumn 2021). The Council has confirmed that this refers to the London Borough of Barking and Dagenham Draft Local Plan 2037 Second

Revised Regulation 19 Consultation Version (Autumn 2021), which has been submitted for Examination in Public (EiP). However, there is no evidence before me as to any findings from the EiP on the soundness of the relevant policies or the extent of any unresolved objections. I have taken this into account when considering the weight to be attributed to the emerging Local Plan below.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area, with particular regard to separation between buildings and how the proposed dwelling would be perceived in the street scene.

Reasons

6. Marston Avenue is a residential street laid out in short terraces, mostly of four to six properties. Gaps between each terrace are generally narrow and there is a well-defined and continuous building line along both sides of the road.
7. The proposed development would occupy a corner site at the junction of Marston Avenue and Marston Close. The latter is a cul de sac of terraced properties around a small green and parking area. The corner plots to either side of Marston Close are wider than most of their neighbours and each includes a double garage attached to the end of the terrace.
8. The proposed dwelling would be on the same alignment as the existing garage, set back from the boundary with Marston Close, retaining a pathway between the front and rear gardens. Since the garage already exists, the distance between the buildings to either side of Marston Close would be unchanged. The garage is a fairly substantial structure which already screens views into the cul-de-sac from Marston Avenue to some extent. As such, the degree of inter-visibility between Marston Close and Marston Avenue at street level would be largely unaffected.
9. There would be an increased sense of enclosure at first floor level, resulting from the introduction of a second storey to form the upper floor of the proposed dwelling. However, the proposed alignment of the first floor flank wall, stepped further back from the site boundary, would maintain a reasonable sense of space around the corner of the terrace at this higher level.
10. Since the existing gaps between terraces are generally narrow, the street scene along Marston Avenue does not have a particularly spacious character. Therefore, the degree of enclosure around this corner would be consistent with the established character of the area. Within Marston Close, the green space provides a sense of spaciousness which would be maintained. The single storey projection at the rear of the proposed dwelling would be modest in scale and largely screened by the existing boundary fencing. Sufficient garden area would be retained to accommodate this additional building mass without the proposed dwelling appearing unduly prominent or intrusive.
11. The proposed design would harmonise with the adjoining terrace, incorporating a fully hipped roof continuing the existing ridge line, facing brickwork matching the rest of the terrace and similar fenestration. Although the proposed dwelling would be narrower than its neighbours, this would not disrupt the rhythm of the street scene to any material degree, since there is already some variation in the length of each terrace.

12. The proposed side entrance would be a departure from the forward-facing entrances found on the existing terraces. However, a side entrance is not a particularly unusual design approach for an end terrace property on a corner site. The proposed gate to Marston Close would help to identify this clearly as the front door, and there would also still be direct access from Marston Avenue, in the form of the retained and modified driveway.
13. Overall, the design strikes a reasonable balance between integrating with the form of the existing building, while creating a separate dwelling, having a sense of approach proportionate to the modest scale of the development.
14. I conclude that the proposed development would not harm the character and appearance of the area. It would accord with Policies D1, D4 and D8 of the London Plan adopted March 2021, Policies CP2, CM1 and CP3 of the Core Strategy¹, Policies BP2 and BP11 of the Borough Wide Development Policies DPD² and relevant paragraphs in the National Planning Policy Framework July 2021. These policies amongst other things require that development protects or enhances the character and amenity of the area, protects and reinforces local distinctiveness and supports a well-designed and accessible public realm.
15. Based on the evidence available to me, I cannot be certain that Policies SP2, DMD1 and DMD4 of the emerging Local Plan are in their final form, since modifications may be proposed as a result of the ongoing Examination in Public. For that reason, I have attributed only limited weight to these emerging policies. In any event, based on the wording included in the Draft Local Plan (Regulation 19 Autumn 2021), none of these emerging policies would materially change the approach in the adopted development plan, in so far as is relevant to the issues raised in this appeal. Therefore the precise weight which should be attached to the emerging Local Plan has not been a determinative factor in my consideration of the issues as set out above.
16. The Residential Extensions and Alterations Supplementary Planning Document (February 2012) provides guidance for people who want to extend and improve their home. Since the proposed development is for the formation of a separate dwelling, albeit one attached to the existing terrace, the SPD is not directly applicable. Therefore I have given it limited weight.

Other Matters

17. The Council's officer report highlights a requirement for cycle parking spaces which is not included in the proposed plans. This is a matter which can be addressed through imposition of conditions, as set out below.

Conditions

18. The Council has suggested a number of conditions which I have considered against advice in the National Planning Policy Framework July 2021 and Planning Practice Guidance. As a result I have amended some of them for consistency, clarity and omitted others.

¹ Planning for the Future of Barking and Dagenham Local Development Framework Core Strategy adopted July 2010

² Planning for the Future of Barking and Dagenham Local Development Framework Borough Wide Development Policies Development Plan Document adopted March 2011

19. A condition specifying the approved plans is necessary as this provides certainty. A condition to secure use of matching external materials is required to ensure that the proposed dwelling is well integrated with the existing terrace.
20. Only limited details have been provided of the proposed boundary treatment. Since the use of boundary treatment to define the approach to the proposed dwelling has been relevant to my consideration of the issues above, further details are required to ensure that this is implemented successfully, as well as to ensure that boundary treatment is appropriate to the character of the area.
21. Conditions are required to secure formation of separate vehicular accesses for the existing and proposed dwelling, together with implementation of on-site parking areas. This is in order to ensure that adequate access and parking facilities are available to support a more intensive residential use without impacting highway safety or the free flow of traffic. This includes provision for parking and storage of bicycles in accordance with Development Plan requirements, as highlighted by the Council.
22. Finally, a condition to prevent insertion of any windows in the south-facing elevation at the rear is necessary to ensure that mutual privacy is maintained following sub-division of the site.
23. According to the Council's officer report, the Environmental Protection consultee recommended that conditions be imposed relating to acoustic protection and contaminated land. However, neither was included in the Council's list of proposed conditions.
24. No specific risks relating to land contamination have been highlighted in the evidence before me. Furthermore, only limited ground disturbance is proposed, since it is intended that the existing garage structure would be adapted and extended. The proposed dwelling would abut an existing external structural wall and I have not been provided with any evidence indicating that this would provide insufficient acoustic protection for a separate dwelling. As such, I conclude that these suggested conditions would be neither necessary nor fairly and reasonably related to the development in question.

Conclusion

25. For the above reasons, I conclude that the proposed development is in accordance with the development plan as a whole, and that there are no other relevant material considerations that would indicate a decision otherwise would be appropriate, therefore the appeal should be allowed subject to the conditions set out in the schedule below.

Jane Smith

INSPECTOR

Schedule of conditions

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
2. The development shall be carried out in accordance with the following approved plans:
 - Site location plan (undated)
 - Existing Ground Floor Plan – A-3-001 Rev P1
 - Existing First Floor Plan – A-3-002 Rev P1
 - Existing Elevations – A-3-003 Rev P1
 - Proposed ground floor plan - A-3-004 Rev P1
 - Proposed first floor plan - A-3-005 Rev P1
 - Proposed roof plan - A-3-006 Rev P1
 - Proposed front and rear elevations - A-3-007 Rev P1
 - Proposed side elevations - A-3-008 Rev P1
3. The materials to be used in the construction of the external surfaces of the dwelling hereby permitted shall match those used in the existing building.
4. No part of the development hereby permitted shall be first occupied unless and until details of all proposed walls, fences, gates or other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. The relevant works shall be carried out in accordance with the approved details and thereafter so retained.
5. The dwelling hereby permitted shall not be occupied until means of vehicular access to both the existing and proposed dwellings on the site have been constructed in accordance with the approved plans. Both accesses shall thereafter be retained.
6. No part of the development hereby permitted shall be first occupied unless and until space has been laid out within the site in accordance with the approved plans for cars to be parked. Thereafter the car parking areas shall be retained and maintained for their designated purpose.
7. Prior to the occupation of the dwelling hereby permitted, details of arrangements for the parking and storage of bicycles shall be submitted to and approved in writing by the Local Planning Authority. The approved bicycle parking and storage facilities shall be provided prior to the first occupation of the dwelling hereby permitted, in accordance with the approved details, and thereafter so retained.
8. 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 windows shall be inserted in the south-facing elevation of the single storey rear element of the dwelling hereby permitted.