



Appeal Decision

Site visit made on 24 January 2023

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 16 March 2023

Appeal Ref: APP/Z5060/W/22/3297564

1 Ben Tillet Close, Barking IG11 9NT

- 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 Brati against the decision of London Borough of Barking and Dagenham Council.
 - The application Ref 21/01851, dated 8 October 2021, was refused by notice dated 29 November 2021.
 - The development proposed is erection of a two-storey two-bedroom house on the land adjacent to 1 Ben Tillet Close.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The reason for refusal refers to conflict with policies in the London Borough of Barking and Dagenham Draft Local Plan 2037 Regulation 19 Consultation Version October 2020 (Draft Local Plan). However, I have been provided with Version September 2020 of the Draft Local Plan within the submitted documents. Notwithstanding this, while the Council has advised that the Draft Local Plan is in its final stages of examination, no details or evidence regarding the direct status of the policies referred to in the reason for refusal has been provided. I cannot be sure that these policies are not subject to further possible amendment. I therefore afford these policies limited weight in this case, focussing on those policies within Barking and Dagenham Core Strategy, adopted July 2010 (CS) and the Barking and Dagenham Borough Wide Development Policies Development Plan Document, adopted March 2011 (DPD).
3. The Council refers to the National Planning Policy Framework 2021 (the Framework) in its reason for refusal. However, I have been provided with the 2019 revision of the Framework within the submitted documents. As the 2021 revision is current, I have determined the appeal within the context of this and consider that there would be no prejudice to the parties.

Main Issues

4. The main issues are the effect of the proposal on:
 - the character and appearance of the area; and
 - the living conditions of the neighbouring occupiers of 57A and 57B Keir Hardie Way with regard to outlook.

Reasons

Character and appearance

5. Ben Tillet Close is a cul-de-sac which is predominantly characterised by short blocks of terraced properties, which front the road and have a very regular, symmetrical and cohesive appearance. A mix of varying length gardens and driveways front the properties, and they have relatively large rear gardens. The cul-de-sac has a spacious feel and is well separated from the junction and properties on Keir Hardie Way and Bevan Avenue by large grass verges and rear and side gardens.
6. The appeal property sits in the first terrace row, closest to Keir Hardie Way. This section of terrace is very consistent in building and roof form as it is to the very similar terrace on the opposite side of the road and also the adjacent terrace row comprising Nos 5-8 Ben Tillet Close (as numbered on the submitted plans).
7. The proposal would attach a two-storey dwelling to the side of 1 Ben Tillet Close (No 1). It would be of a similar size to the other terrace units but would be nominally set back from the front elevation, allowing inclusion of a front pedestrian access. It would not have its own dedicated front garden or drive but would share No 1's drive. The proposal would also extend the existing hipped roof and the ridge of this would be slightly lower than existing.
8. While there is some variation in the terrace lengths along the street, the proposal would be a proportionally large addition, in scale and mass, to the existing terrace. Even with the use of matching materials and the separation created by the large front grass verge and garden areas, together with the scale and massing effect, the proposal's setback, lower roof ridge line and lack of its own dedicated formal garden or drive across its full frontage width would create an incongruous addition and disparity in the street scene. It would unbalance the symmetry of the terrace with the one opposite and that comprising Nos 5-8, and noticeably impinge on the space between the side of No 1 and the rear of properties on Keir Hardie Way to the detriment of the street scene's sense of spaciousness.
9. In relation to the above point concerning the lack of its own dedicated formal garden or drive across its full frontage width, this would be a significant deviation from that of the close surrounding properties and an uncharacteristic feature in the street scene of Ben Tillet Close. Retaining the large green verge in front of the proposed dwelling, whether maintained by the Council or future occupant, would do little to mitigate this visual harm.
10. The appellant has advised that there are examples of similar extensions to properties adjacent to the Rippleside Cemetery and also within the estate with specific reference to the corner plots on Lodge Avenue and Meadow Road. They also cite the existing terrace extensions on 57A and 57B Keir Hardy Way (Nos 57A and 57B) as further examples of similar development. However, from my observation, these examples are not similar in the context of the appeal site in terms of the degree of uniformity and sense of spaciousness within Ben Tillet Close and therefore, they are not comparable to the proposal. While there are a number of examples of shared pedestrian accesses within the estate, these are not typical along Ben Tillet Close. Overall, I find that these examples are

not sufficiently comparable to lead me to a different conclusion regarding the proposal before me which I have determined on its merits.

11. While I note the appellant refers to the area being fairly low density and better use of land could have been made, it is this spaciousness, in conjunction with the regular and symmetrical building form, that gives this part of the street its distinctiveness. It is this loss of distinctiveness which is the concern with the proposal.
12. Concern has been expressed that the Council has a preference for medium and high-rise developments for the Borough's housing stock. However, little substantive evidence has been provided to show this to be the case and in any event, I have determined the appeal on its planning merits.
13. The appellant argues that small infill developments provide opportunities for family orientated low rise dwellings. While this is noted, I have considered the proposal on its own merits, based on all of the evidence before me and the specific context of the appeal site.
14. For the above reasons, the proposal would cause unacceptable harm to the character and appearance of the area and would be contrary with Policy CP3 of the CS, Policies BP8 and BP11 of the DPD and Policy D4 of the London Plan 2021 (London Plan). These policies seek, amongst other matters, for development to have a high-quality design which protects or enhances local character. The proposal would also be contrary to section 12 of the Framework which seeks to achieve well-designed places.

Living conditions

15. The rear of Nos 57A and 57B face the boundary fence to No1, its side garden and side elevation. These properties have windows at ground and first floor levels and have relatively short gardens. The outlook from these properties is limited to an extent by the existing fence and side elevation of the terrace. However, the proposal would be set notably closer to the boundary then, with its two-storey height and full terrace width, albeit all set back from the front of No 1, it would be markedly more imposing on the outlook from these properties and their gardens compared to the existing situation. It would appear as an overbearing feature and harm the outlook of occupiers at Nos 57A and 57B.
16. The quality of outlook from high rise blocks in the borough is raised by the appellant. However, I have considered this appeal on the particular circumstances before me. In any case each proposal should be considered on its own merits.
17. For the above reasons, the proposal would harm the living conditions of neighbouring occupiers of Nos 57A and 57B with regard to outlook. It would be contrary with Policy CP3 of the CS, Policies BP8 and BP11 of the DPD and Policy D4 of the London Plan. These seek, amongst other matters, to ensure development protects and maintains residential amenity, including outlook, and that this is based on a high-quality design. The proposal would also be contrary to paragraph 130 of the Framework which seeks development, amongst other matters, to promote a high standard of amenity for existing users.

Other Matters

18. The proposal attempts to overcome the reasons for refusal of two earlier planning applications which were appealed and dismissed. The first one was in April 2013 and related to a three-bedroom dwelling (appeal ref: APP/Z5060/A/12/2187593) and the second one was a two-bedroom dwelling in November 2021 (appeal ref: APP/Z5060/W/21/3273231). While it is noted that the dwelling size was significantly reduced between the 2013 and 2021 appeals, the proposal before me is similar to that considered by the 2021 appeal with the exception of relatively small building design changes including a small set back from the front of No 1 and a small drop in the ridgeline. The Inspector in the 2021 appeal found the proposal adversely affected the character and appearance of the area and harmed the living conditions of the occupants at No 57A and 57B. For the reasons set out in my findings on the main issues, the currently proposed development would fail to overcome those concerns of my colleague.
19. Although the proposal would to some extent reduce overlooking of No 1 from No 57A and 57B this would not outweigh the harm I have identified above. Furthermore, although the proposal would not harm access to daylight to neighbouring properties, this is a neutral factor.
20. It is contended that the proposal complies with all aspects of the current London Plan, however no substantive evidence is provided to demonstrate this. Furthermore, while the Council do not dispute that the proposal's floor areas, parking and amenity complies with its design guidance or the London Plan these again are neutral factors.

Planning Balance

21. The Council has indicated that its Housing Delivery Test results dated January 2021 show that it delivered 57% housing requirement over the latest 3-year period. As such, as set out in paragraph 11 d) of the Framework, it is for me to determine whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits inherent in providing an additional dwelling to assist the Council in addressing its under delivery.
22. The site has good access to local services, facilities and shops, would make efficient use of a large garden area and provide some reduction in overlooking of No 1's garden. Also, the proposal would deliver an additional dwelling that would add to the Borough's housing stock and meet the Government's aims to boost the supply of housing. The proposal would also lead to some social and economic benefits through the construction of the property and the activities of future residents of the scheme. However, one dwelling would be a small gain which attracts limited weight. When taken together these benefits would attract moderate weight in favour of the proposal.
23. The proposal would cause unacceptable harm to the character and appearance of the area and the living conditions of neighbouring occupants at No 57A and No 57B and I give this significant weight against the proposal.
24. Consequently, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the Framework taken as a whole, and so the presumption in favour of sustainable development does not apply.

Conclusion

25. There are no material considerations that warrant reaching a decision other than in accordance with the development plan. For the reasons given the appeal should be dismissed.

J Symmons

INSPECTOR