



Appeal Decision

Site visit made on 20 January 2023

by Chris Forreth BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2023

Appeal Ref: APP/Z5060/W/22/3292143

65 Mayswood Gardens, Dagenham RM10 8UU

- 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 Elez Sufa against the decision of London Borough of Barking and Dagenham Council.
 - The application Ref 21/01899/FULL, dated 13 October 2021, was refused by notice dated 6 December 2021.
 - The development proposed is the demolition of existing double garage and the construction of a 1x bedroom Bungalow with mansard roof with associated refuse and bicycle storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form described the proposal as the demolition of existing double garage and replacement with a bungalow. However, the Councils decision notice amended this to that shown in the banner header above. I also note that the Appellant has also utilised this revised description on the appeal form. Given that the revised description reflects the proposal before me, I have determined the appeal on the basis of this revised description.
3. The Appellant has submitted amended plans with the appeal submission which would reduce the height of the proposed bungalow from 4 metres in height to 3.5 metres. In deciding whether to accept these plans, I am mindful of the principles of the Wheatcroft case (Bernard Wheatcroft Ltd. v Secretary of State for the Environment and Another 1982).
4. I am also conscious that the appeal process should not be used to evolve a proposal. In this case, I consider that it would not be appropriate to accept these amended plans at the appeal stage as it is unclear whether any interested party, including the Council, has considered the revised proposal. I have therefore determined the appeal on the basis of the plans considered by the Council.
5. The Council's decision notice refers to a number of policies from the emerging London Borough of Barking and Dagenham Draft Local Plan 2037. However, from the information before me the examination of the emerging plan has yet to be completed, and policies within it could be subject to change. I can therefore afford only limited weight to these policies.

Main Issues

6. The main issues are the effect of the development on the character and appearance of the area, the living conditions of the occupiers of 63, 65 and 65A Mayswood Gardens, and whether the proposal would provide suitable living conditions for the future occupiers of the property.

Reasons

Character and appearance

7. The appeal site is located in a largely residential area with some commercial and educational uses nearby. The properties in the immediate vicinity consist of bungalows and two-storey residential properties.
8. The appeal site itself lies to the rear of 65 and 65A Mayswood Gardens. However, it also directly fronts onto Mayswood Gardens towards the end of the cul-de-sac owing to the right angled bend in the road. The appeal proposal is for the removal of the existing garage and its replacement with a small bungalow.
9. The Council have raised concern that the proposal would be a backland form of development. However, whilst the proposal would be located to the rear of Nos. 65 and 65A, it would also have a direct road frontage, similar to that of the adjoining property at No. 67. To that end, the proposal cannot be considered to be a backland form of development.
10. The bungalow would be around 4 metres in height which would be slightly lower in height than the existing bungalows opposite the site. Nevertheless, the bungalow would still exhibit a visible presence in the streetscene despite the hedgerow and landscaping to the street boundary.
11. Whilst I accept that the overall design and shape of the bungalow would not reflect the existing properties in the street, significantly, it would not result in a development which would be harmful to the overall character and appearance of the area. This is particularly the case as there is some variety in the appearance of the bungalows nearby principally owing to later additions and alterations.
12. The Council has referred to Policy CP2 of the Core Strategy (2010) (CS) in its reason for refusal relating to the character and appearance of the area. However, this policy is concerned with protecting and promoting the historic environment. From the evidence supplied to me the appeal site is not located within such an area, nor would it have an impact on the setting of any heritage assets. Therefore, I have given this policy very little weight in my decision.
13. For the above reasons, the bungalow would not harm the character and appearance of the area and would accord with Policies D1, D4 and D8 of The London Plan (2021), Policy CP3 of the CS and Policy BP11 of the Borough Wide Development Policies Development Plan Document (2011) (BWDPDPD) which amongst other matters seek to deliver good design and protect or enhance the character and amenity of the area. It would also accord with the overarching aims of the National Planning Policy Framework (the Framework) in this respect and Standards 8 and 10 of the Housing Supplementary Planning Guidance (updated 2017).

Living conditions – occupiers of neighbouring properties

14. As noted above, the appeal site is located to the rear of Nos. 65 and 65a. The bungalow itself would be largely sited to the rear of No. 65, whilst the rear garden of No. 63 extends along the rear of the proposed bungalow.
15. From the submitted plans there would be around 10 metres between the side wall of the bungalow and the rear elevations of Nos 65 and 65a. To my mind, given this distance and the overall height, roof design, position and scale of the bungalow, this would not result in any significant loss of outlook for the occupiers of these properties, nor would appear as an overbearing structure.
16. Whilst the bungalow's siting to the south of these gardens would result in some shadowing to the garden area, this would not be significant and to an extent that would result in an unacceptable loss of amenity to the occupiers of Nos 65 or 65a.
17. Turning to the effect of the proposal on the occupiers of No. 63, the garden area for this property extends beyond that of Nos. 65 and 65a and adjoins the rear boundary of the appeal site. However, at my site visit I noted an outbuilding towards the rear of the garden area of No. 63.
18. Taking this into account, the effect of the proposal on outlook from No. 63 would not be too dissimilar to that in respect of Nos 65 and 65a. Similarly, the existing outbuilding would shield a large part of the proposal and would assist in reducing its impact. As a result, in my view, the proposal would not be an overbearing structure when viewed from the garden area of No. 63.
19. Turning to possible overshadowing from the proposal, this would be limited to a short period of time in the morning given its juxtaposition in relation to the position of the sun between sunrise and sunset. To that extent, there would not be any significant impact on respect of overshadowing either.
20. Taking all of the above factors into account, the proposal would not harm the living conditions of the occupiers of the neighbouring properties and would accord with Policies BP8 and BP11 of the BWDPDPD which amongst other matters seek to protect the residential amenity of the occupiers of adjoining properties. It would also accord with the Framework in this respect.
21. The Council have also referred to Policies D1 and D4 of the London Plan and Policy CP3 of the CS in the reason for refusal relating to the occupiers of the adjoining properties. However, these policies do not readily relate to matters relating to the effect of the living conditions of the occupiers of neighbouring properties, being more concerned with design and character issues. As such, I find that the proposal has no conflict with them.

Living conditions – future occupiers of the development

22. The bungalow is designed so that there are no windows in either side or rear elevation of the property, with only two east facing windows to the front aspect. One of these front windows would serve the bedroom whilst the other would serve an open plan living/dining/kitchen area. There are no other windows or roof/skylights proposed.
23. Whilst I acknowledge that these windows are not small, the rooms which they serve would be relatively deep. From the Councils officers report the depth of

the building (as opposed to the internal room size) would be 5.61 metres where the bedroom is and 6.76 metres on the kitchen/living area side.

24. Given the depth of both of these rooms, and in the absence of any convincing evidence to the contrary, there would be large parts of the rooms which would not have good natural lighting. This lack of natural lighting would create an oppressive, and unacceptable, internal living environment for the future occupiers of the development.
25. In addition to the above, I note that there is also a slight deficiency in the amount of storage space when compared to the standards set out in the Technical Housing Standards – nationally described space standard. However, I also note that the Council does not consider this to be significant and that in this case it should not be a barrier to the granting of planning permission. In that respect, I agree.
26. For the above reasons the proposal would not provide suitable living conditions for the future occupiers of the development as a result of the lack of natural lighting to its habitable rooms. As a result, the proposal would be contrary to the aims and objectives of the Framework which seeks to ensure that proposals create places which have a high standard of amenity for future users.

Planning balance

27. The Council has set out that the presumption in favour of sustainable development contained within paragraph 11 d) of the Framework is engaged as a result of the Housing Delivery Test results and I have no reason to disagree with that view.
28. In this case, I have found that the proposal would not provide suitable living conditions for the future occupiers of the development. To my mind, this weighs very heavily against allowing the proposed development.
29. That said, the proposal would provide a much-needed additional dwelling which would contribute to future housing delivery. Additionally, the development would bring social benefits as a result of an additional dwelling and economic benefits from the construction process together with the ongoing occupation of the dwelling. However, these benefits are limited in the overall balance.
30. Taking all of the above factors into account, whilst there are obvious benefits arising from the proposal in terms of housing delivery, I consider that the poor living conditions which the future occupiers would suffer from would significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies in the Framework when taken as a whole. The proposal cannot therefore be considered to be sustainable development.

Conclusion

31. For the reasons given above I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR