



Appeal Decision

Site visit made on 20 November 2023

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 March 2024

Appeal Ref: APP/Z5060/W/22/3297494

97 St Awdrys Road, Barking and Dagenham, Barking IG11 7QB

- 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 Amco Properties Limited against the decision of the Council of the London Borough of Barking and Dagenham.
 - The application Ref 22/00285/FULL, dated 14 February 2022, was refused by notice dated 20 April 2022.
 - The development proposed is described in the application form as: retention of two 2x bedroom flats and one studio flat (3 flats).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was made, the National Planning Policy Framework has been published in December 2023 (the Framework). This replaces the former version, which is referred to in the documents before me. Whilst paragraph numbering might have changed, there have been no changes to the guidance that is relevant to this appeal. Accordingly, it was not necessary to seek the parties' views on the replacement guidance document.
3. There are two separate appeals¹ made under section 174 of The Town and Country Planning Act 1990 as amended (the 1990 Act) relating to 97 St Awdrys Road. These relate to the use of the property as more than one self contained unit of residential accommodation and to a rear extension. Whilst these appeals have also been determined by me, they were not formally linked to this appeal and are the subject of a separate decision. I have not, therefore, had regard to the representations made on those appeals in determining the appeal subject of this decision. To do so would cause injustice to the parties.
4. On a final matter, the application seeks the retention of the use of the property as 3 flats. The pre-existing plans show that the property was formerly used as a single dwellinghouse. Having had the benefit of a site visit I note that the appeal site is broadly laid out and used in accordance with the description of the development on the application form and the 'as-built' plans submitted with it. Accordingly, I have determined the appeal on the basis of existing, rather than proposed development.

¹ Appeal reference APP/Z5060/W/22/3297494

Main Issues

5. There are three reasons for the refusal stated on the decision notice. From these I have identified the following main issues:

- Whether or not the development is acceptable, having regard to the local policy that resists the loss of family housing;
- The effect of the development on the living conditions of its occupiers; and
- The effect of the development on the living conditions of neighbouring occupiers.

Reasons

Family Housing

6. The property occupying the appeal site has been sub-divided and accommodates three self-contained units of residential accommodation. The decision notice refers to a number of policies, the most relevant is Policy BC4 (Residential Conversions and Houses in Multiple Occupation) of the Local Development Framework Borough Wide Development Policies Development Plan Document adopted March 2011 (DPD). This informs: 'The Council is seeking to preserve and increase the stock of family housing in the Borough. Consequently, when planning permission is required, the Council will resist proposals which involve the loss of housing with three bedrooms or more'. The Policy provides the following list of criteria that must be satisfied for any proposals for flat conversions to be considered acceptable:

- The number of houses that have been converted to flats and / or HMOs in any road (including unimplemented but still valid planning permissions) does not exceed 10% of the total number of houses in the road. No two adjacent properties apart from dwellings that are separated by a road should be converted.
- No significant loss of character or amenity occurs to the area as a result of increased traffic, noise and/or general disturbance.
- Regard is had to the appropriate design, transportation, and internal and external amenity space standards policies.
- The internal space standards required by Policy BP6 can be met for all of the proposed new dwelling units.
- Adequate space is provided to store refuse and recycling ready for collection.

7. The Council points to other policies of the development plan that it says support the need to retain family housing that is of good quality. These include Policy H10 (Housing size mix) of the London Plan adopted March 2021 (LP) and Policy CC1 (Family housing) of the Local Development Framework Core Strategy Adopted July 2010 (CS).

8. With regard to the first of the criteria of Policy BC4 of the DPD, the Council does not indicate whether or not the number of flats or HMOs in St Awdrys Road is more than 10% of the total number of houses in the road. In addition to this, there is no suggestion that inadequate space for refuse and recycling

has been provided at the site. I am, therefore, unable to conclude that the development does not accord with these criteria of the Policy.

9. As for the remaining criteria, these are wholly relevant to the other main issues I have identified. I will, therefore, consider these criteria below.

Living Conditions of the Occupiers

10. LP Policy D6 (Housing quality and standards) requires housing development to be of high quality design and provide adequately-sized rooms with comfortable and functional layouts which are fit for purpose and meet the needs of Londoners without differentiating between tenures. Table 3.1 of the LP sets out the minimum gross internal floor areas and storage per dwelling type. The table is also set out in the Technical housing standards - nationally described space standards published 27 March 2015.
11. The Council refer to Policy BP6 (Internal space standards) of the DPD, which also provides a set of standards for 'the aggregate of the cooking, eating and living areas' that are in the interests of 'both accessibility and for sustainability and for quality of life including health'.
12. In the officer report prepared in respect of the application subject of this appeal the Council has calculated the internal floor space of each of the units of accommodation. It indicates that, whilst some of the bedrooms may comply with the LP and Technical housing standards, none of the units overall provide sufficient internal floor space to comply with any of the above-mentioned standards. This is not disputed by the appellant.
13. I can see that each unit of accommodation provides all internal facilities to be expected in a dwellinghouse. However, in each case this is provided within a confined space that does not render any unit a comfortable place of retreat. The rooms within the ground floor units are particularly restricted and do not easily accommodate the furniture and circulation space necessary for the accommodation to function as a dwelling, whilst also providing sufficient and comfortable space for relaxation.
14. Whilst the first floor flat has an outlook to the front and rear, there are rooms within the ground floor accommodation that have no means of outlook, save for a roof light providing a limited degree of natural light. Even in the case of a single aspect dwelling, paragraph 3.6.5 of the LP advises that these 'are more difficult to ventilate naturally and are more likely to overheat'. Criterion C of LP Policy D6 informs that they should be avoided and only provided in certain circumstances. The appellant has not demonstrated that the circumstances of this case comply with these exceptions.
15. In addition to the above, only the ground floor unit at the rear has access to the outdoor space within the site. This arrangement is in conflict with criterion F 9) of Policy D6, which requires a minimum of 5 square meters of private outdoor space for each 1-2 person dwelling. This is also in conflict with DPD Policy BP5 (External amenity space), which states that planning permission will only be granted for 'new dwellings where they provide appropriate external private and/ or communal amenity space to meet the needs generated by the development'.
16. The housing standards are intended to indicate a minimum for new accommodation to achieve a high quality design that is fit for purpose and

meets the needs of its occupiers. The development fails to achieve these standards and has resulted in accommodation that I find to be wholly inadequate for the health and wellbeing of its occupiers.

17. All things considered, I conclude that the development has a harmful effect on the living conditions of its occupiers. The development fails to accord with LP Policy D6, the Technical housing standards and DPD Policies BP5 and BP6.
18. In addition, the development also fails to accord with the paragraphs of the Framework on achieving well-designed and beautiful places. These require development to, amongst other matters, promote health and well-being and be of a high standard of amenity for existing and future users.
19. For the above reasons, the development is also in conflict with the third and fourth bullet point of DPD Policy BC4. As such, I can now conclude on the first main issue and find the development to be unacceptable, having regard to local policy that resists the loss of family housing.

Living Conditions of Neighbouring Occupiers

20. The Council refers to noise and disturbance caused by the development, to the detriment of neighbouring occupiers. As only the occupiers of the rear ground floor flat have access to the garden space to the rear, I am unable to conclude that the development would result in an increase in activity in the use of this garden space.
21. The development does result in the comings and goings of three households to and from the property. I can agree that these movements are likely to be greater when compared to the former single dwellinghouse. However, the appeal site is within a densely populated area where there is likely to be a certain level of activity from residents of the street arriving at or leaving their homes.
22. The Council does not expand upon the extent of the movements to and from the property compared with the previous situation, such that I can conclude that they would result in an unacceptable level of noise and disturbance.
23. In view of the above, I am unable to conclude that the development causes an unacceptable degree of harm to the living conditions of the neighbouring occupiers. For this reason, I find no conflict with DPD Policies BP8 (Protecting residential amenity) and BP11 (Urban design), or with the Framework. I am unable to find the development to have resulted in unacceptable levels of noise or to have caused harm to the amenity of the area. Furthermore, I cannot find the development out of accord with the second bullet point of DPD Policy BC4.

Other Matters

24. The Council acknowledge that it is unable to demonstrate that there is a 5 year supply of housing land. The provisions of paragraph 11d of the Framework are engaged. I must, therefore, weigh the benefits of the development proposed against its adverse impacts, assessing these against the policies in the Framework.
25. The appellant's grounds of appeal are briefly stated and these do not set out the benefits of the development in a clear manner. Nevertheless, I acknowledge that, were I to grant planning permission, the development would

make a contribution to meeting the housing needs of the area. There may well be a demand for units of the size accommodated at the appeal site and I acknowledged the occupiers of the site have easy access to more sustainable transport modes.

26. However, I must balance the above against the harm I have identified in this case. The accommodation comprised in the three units is wholly inadequate and I find it to be substantially harmful to the health, well-being and amenity of its occupiers. Accordingly, I attribute significant weight to the conflict with the relevant policies of the development plan. For these reasons, I must conclude that the harm caused by the development significantly and demonstrably outweigh its benefits, when assessed against the policies in the Framework taken as a whole.

Planning Balance and Conclusion

27. For the reasons given above, I conclude that my determination of the appeal should not be made otherwise than in accordance with the development plan when read as a whole. I cannot be satisfied that conditions would overcome the harm identified. Accordingly, I conclude that the appeal should be dismissed.

J Moss

INSPECTOR