

Appeal Decision

Site visit made on 3 July 2024

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 October 2024

Appeal Ref: APP/Z5060/W/23/3328463

109 Essex Road, Barking & Dagenham IG11 7QN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms Denitsa Spasova against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref is 23/00642/FULL.
 - The development proposed is construction of a single storey, part 2 storey 1x bed dwelling house to the rear of existing house.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The London Borough of Barking and Dagenham Local Plan 2020-2047 (the Local Plan) was adopted in September 2024. The policies from the Local Development Framework (LDF) Core Strategy (July 2010) and the LDF Borough Wide Development Plan Document (DPD) (March 2011), referred to by the Council in their decision notice, are now superseded by the adoption of the Local Plan. The Council has provided copies of Local Plan policies they consider relevant to the appeal. Both parties have had an opportunity to comment on this change. I have therefore disregarded superseded policies.
3. In December 2023, a revised version of the National Planning Policy Framework (the Framework) was published. The Council and the appellant have had an opportunity to comment on the revised Framework through the appeal process. I have had regard to the revised Framework in my decision.

Main Issues

4. The main issues are:
 - Whether the proposal would provide adequate living conditions for future occupiers, with particular regard to natural light, outlook, privacy and access arrangements;
 - The effect of the proposal on the living conditions of the occupiers of neighbouring properties, with particular regard to outlook, privacy and natural light; and
 - The effect of the proposal on the character and appearance of the area.

Reasons

Living conditions for future occupiers

5. The appeal proposal comprises the provision of a single dwelling across 2 levels located to the rear of an existing house. The site is bounded by railway land to the south-west, a pedestrian footbridge, stairs and footpath to the north-west and the rear gardens of the existing house at 109 Essex Road and neighbouring dwelling at 107 Essex Road. A daylight and sunlight report was not submitted with the planning application and none has been received in relation to this appeal. I must therefore assess the relevant matters on the merits of the case as I see them.
6. The dwelling would be served by a small external terrace. This would be heavily enclosed by the adjacent stairs, the external walls of the proposed dwelling and a proposed 1.8 metre high "hit and miss pattern" brick wall along the railway boundary. Despite its south-west facing orientation, the adjacent structures, including the pedestrian footbridge, would limit the amount of direct sunlight this area would receive, particularly when the sun is lower in the sky. The level of enclosure would also provide a significantly restricted outlook, with only partial views across the adjacent rail line.
7. The main living accommodation of the proposed dwelling would be at ground floor, including a studio style open-plan bedroom, kitchen, dining and living room. This space would be served by two window openings, including a high-level window in the north-east facing elevation serving the kitchen area. There would also be what the appellant describes as a "standard" window opening in the west facing elevation, overlooking the small enclosed external terrace, however the plans before me do not clearly depict the size of this opening.
8. Even if this were a large window opening, the small size and enclosed nature of the proposed terrace would significantly curtail outlook from the room and would restrict the levels of natural light internally. The kitchen window serving the same room would also fail to provide any meaningful outlook due to its high-level position and would benefit from only limited sunlight due to its north facing aspect.
9. Views from the bridge and stairs adjacent to the site are restricted due to the height of the wall and fencing enclosing this route. Due to the relationship between this pedestrian route and the windows and external space of the proposed dwelling, it is unlikely that this would significantly compromise the privacy of future occupiers.
10. While the proposed access to the site would be onto the pedestrian footpath to the north-west, and not directly onto Essex Road, the distance from the access gate to the street is short. The proposed access gate would be visible when standing at the end of the street, and for anyone using the network of footpaths and bridges that cross the adjacent rail lines. These pedestrian routes are close to the centre of Barking, and I saw at the time of my site visit that they are relatively well trafficked during the day. There are also street lighting columns positioned along the footpath.
11. The footpath is bounded by metal palisade fencing on one side, which provides views across the adjacent land and reduces the sense of enclosure

along its length. Moreover, given the height of the wall and fencing along the side of the appeal side, and extending up the adjacent stairs, it would be difficult for anyone to gain unauthorised access to the appeal site across this boundary. The proposed access would therefore not pose a significant risk to the safety and security of future occupiers.

12. Nevertheless, the proposal would fail to provide adequate living conditions for future occupiers, with regard to natural light and outlook. In this regard, it would be contrary to Policies D4 and D6 of the London Plan March 2021 (the London Plan), and Policies SP2, SP3 and DMD1 of the Local Plan. These policies, among other provisions, seek to ensure proposals provide high quality design and rooms which are fit for purpose, with sufficient daylight and sunlight. The proposal would also conflict with paragraph 135 of the Framework, which seeks to ensure that developments create places with a high standard of amenity for existing and future users.

Living conditions for neighbours

13. The proposed dwelling would be located on land that currently forms part of the private rear garden of 109 Essex Road. The current outlook from the rear of No 109 and its rear garden area is dominated by the existing boundary treatments, vegetation and the large railway footbridge adjacent. The proposal would draw the boundaries of No 109's garden inward, further enclosing the garden space and rear facing windows.
14. The rear boundary would be formed of the external wall of the proposed dwelling, and thus would increase in height up to 2.8 metres. Additionally, the size and proximity of the proposed two storey element would have an overbearing presence on the remaining garden area. The proposal would thus have a deleterious effect on the outlook from No 109.
15. Direct views into the rear garden area of No 109 from the proposed high level kitchen window and from the first-floor study window would be difficult to achieve due to their position and orientation. Nevertheless, a degree of overlooking could occur at times, and the physical relationship between this neighbouring dwelling and the proposed dwelling and its windows would reduce the sense of privacy for occupiers of No 109.
16. The position of the proposed dwelling to the south-west of No 109 would also likely cast a considerable shadow over the modest retained rear garden space of the host dwelling through much of the day. The proposal would therefore have a harmful effect on the living conditions of the occupiers of No 109.
17. The relationship between the proposed dwelling and No 107 would be more oblique, with the proposal sitting west of the existing fence line. It would not infringe on the existing garden space of No 107, with only the shorter side elevation abutting the boundary. The two-storey element would also be set away from the boundary, and there would be no windows directly facing this neighbouring property. The proposal would thus not have an unduly harmful effect on the occupiers of No 107 or other neighbouring dwellings further to the south-east.
18. Nevertheless, the proposal would have a harmful effect on the living conditions of the occupiers of neighbouring properties (109 Essex Road), with

particular regard to outlook, privacy and natural light. It would therefore be contrary to Policy D4 of the London Plan, and Policies SP2 and DMD1 of the Local Plan. These policies, among other provisions, seek to ensure proposals provide high quality design, and consider the impact on the amenity of neighbouring properties. The proposal would also conflict with paragraph 135 of the Framework, which seeks to ensure that developments create places with a high standard of amenity for existing and future users.

Character and appearance

19. The area surrounding the appeal site is primarily residential. It is predominantly characterised by terraces of traditional two storey dwellings, set back behind modest front gardens, with direct access onto the street. The rows on Essex Road and St Awdry's Road sit back-to-back and parallel to one another, though they are separated by the rail line in between. Private rear gardens to each property provide separation and a soft buffer between the railway and dwellings, though many accommodate garden buildings.
20. The appeal site is set back from the street scene on Essex Road behind the existing terrace. However, the appeal proposal would result in the formal subdivision of the existing rear garden space and any projection above the existing rear boundary enclosure would be visible from the footpath, bridge and rail lines, as well as neighbouring properties.
21. While the single storey element of the proposal would be similar in scale and form to neighbouring outbuildings, the nature of its use as an independent dwelling would be appreciably different to that of an ancillary garden structure. Moreover, the two-storey element would be a prominent projection above the existing boundary treatments. It would be conspicuous amongst the typically modest garden structures along the railway boundary.
22. The proposed dwelling would occupy a considerable proportion of the plot and would be sited on, or very close to, site boundaries. The dwelling would thus dominate the plot and create a sense of clutter in this part of the street, with little separation from the existing dwelling, the adjacent pedestrian bridge or the railway land. It would thus erode the sense of space and the buffer provided by the rear gardens.
23. The design of the proposal is largely contemporary, with an unconventional layout, limited window openings and the use of timber cladding at first floor. While contemporary design alongside the traditional is not inherently inimical, combined with the factors outlined above, in this case it would appear as an incongruous and obtrusive addition at odds with the prevailing character and appearance of the area.
24. My attention has been drawn to a recent development at 2 St Awdry's Road, for demolition of a dwelling and erection of 4 new dwellings. The full details of that case are not before me. However, from my own observations and the plans provided, the scale and context of that development differ from the appeal scheme. This form of development is also not a prevailing characteristic of the area. This does not therefore lead me to a different conclusion on this main issue.

25. The proposal would therefore have a harmful effect on the character and appearance of the area. In this regard, it would be contrary to Policy D4 of the London Plan and Policies SP2 and DMD1 of the Local Plan. These policies, among other provisions, seek to ensure development proposals provide high quality design, relate to their local context and make a positive contribution to the character of the surrounding area.
26. The proposal would also conflict with Paragraph 135 of the Framework in this regard. This paragraph seeks to ensure that developments add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscape, are sympathetic to local character, while not preventing or discouraging appropriate innovation or change, and maintain a strong sense of place, including through the arrangement of streets, spaces, building types and materials.

Other Matters

27. Paragraph 11(d) of the Framework indicates that the presumption in favour of sustainable development is engaged where the policies which are most important for determining the application are deemed out-of-date. This includes, for proposals involving the provision of housing, situations where the Housing Delivery Test (HDT) indicates that the delivery of housing was below 75% of the housing requirement over the previous 3 years.
28. The evidence indicates that housing delivery in the borough in the 3 years up to 2022 stood at 62%. The delivery of new housing must therefore be afforded considerable weight. In such cases, Paragraph 11(d) states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
29. Chapter 5 of the Framework seeks to significantly boost housing supply. It highlights that small sites can make important contributions to housing requirements. Paragraph 123 also promotes the effective use of land in meeting the need for homes. The development would provide a temporary economic boost during construction, reuse previously developed land, and contribute to housing delivery. Additional residents may contribute to the local economy and vitality of the community. However, these benefits would be modest given the small scale and context of the development.
30. Paragraph 135 of the Framework seeks to ensure that developments add to the overall quality of the area, are visually attractive, sympathetic to local character, maintain a strong sense of place, and create places with a high standard of amenity for existing and future users. Policies SP2, SP3 and DMD1 of the Local Plan, and Policies D4 and D6 of the London Plan are consistent in this regard. The harm and development plan conflict in respect of the main issues identified above therefore attracts significant weight.
31. This would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole. Accordingly, Paragraph 11(d)(ii) of the Framework indicates that the presumption in favour of sustainable development does not apply in this instance.

Conclusion

32. The proposed development conflicts with the development plan, taken as a whole. I have found no material considerations that indicate the appeal should be determined other than in accordance with the development plan. Consequently, I conclude that the appeal is dismissed.

Ryan Cowley

INSPECTOR