
Appeal Decision

Site visit made on 17 September 2024

by C Livingstone MA(SocSci) (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2024

Appeal Ref: APP/Z5060/W/23/3333898

67 Mayswood Gardens, Dagenham RM10 8UU

- 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 Brenda Yang against the decision of the Council of the London Borough of Barking and Dagenham.
 - The application Ref is 23/00774/FULL.
 - The development proposed is a single storey 1 bedroom dwelling to replace existing outbuilding.
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Decision

1. The appeal is allowed, and planning permission is granted for a single storey 1 bedroom dwelling to replace existing outbuilding at 67 Mayswood Gardens, Dagenham RM10 8UU in accordance with the terms of the application, Ref 23/00774/FULL, subject to the following conditions in the attached schedule.

Preliminary Matters

2. It is noted that on the original planning application the name of the applicant was entered as 'Yang'. The agent has confirmed that the full name of the appellant was entered on the appeal form as Brenda Yang and this is the same person, in the interests of clarity I have used the appellants full name in the heading above.
3. The Council has confirmed that the Housing Supplementary Planning Guidance 2016 referred to in the Decision Notice have been superseded by the London Plan Guidance Housing Design Standards 2023. The appellants are aware of this change to the guidance and have had the opportunity to comment upon its relevance to the appeal.
4. Barking and Dagenham's Draft Local Plan is currently at Regulation 19 stage. The policies in emerging plans do not have the same statutory force as that afforded to policies in adopted development plans under s38(6) of the 2004 Act. They are nevertheless material considerations and I return to the emerging Plan as appropriate in my Decision.

Main Issues

5. The main issue is whether the proposed development would provide suitable living conditions for future occupants with regard to access, fire safety and the provision of waste disposal facilities.

Reasons

6. The appeal site is located within a residential area characterised by a linear pattern development, with properties fronting on to the street. The appeal

proposal is for the erection of a single storey detached dwelling to the rear of 67 Mayswood Gardens. The proposed dwelling would be accessed via a shared grassed access that runs from the appeal site to Mayswood Gardens, this access runs along the side of the rear garden of 67 Mayswood Gardens and the bottom rear boundary of neighbouring properties. Based on the evidence before me occupants of neighbouring properties have a 'foot and barrow' right of access over half the width of the access. Which is secured at its entrance off Mayswood Gardens by a locked gate.

7. The scheme includes permeable paving between the proposed property and the street, and the access gate would include an intercom access system and signage that would identify the location of the property. Further, lighting and landscaping is proposed in order to improve the legibility of the development in relation to the street. These factors combine to ensure that the appeal property would be clearly identifiable. The security gate may restrict access to a degree; however, a gated access is not uncommon. The gate is set back from the edge of the footway by a few metres but is clearly visible within the street scene.
8. There is no policy requirement before me that a dwelling should be directly accessed from the public realm. The proposed dwelling would not have a frontage on the street, however, the access would be clearly visible. As such the development would comply with the guidance within section B1.1 of the London Plan Guidance Housing Design Standards 2023 (HDS), which requires that private and communal entrances should be visible and clearly identifiable from the public realm.
9. The proposed path would be paved to create a pedestrian access between the proposed dwelling and the street. While the plans indicate that the paving would be suitable for vehicular use, the appellant asserts that neighbouring occupants that share the access do not have a vehicular right of way over the land. In light of this, using a car to purposefully block access to the proposed dwelling would be a civil matter.
10. As the access gate is in shared usage there is a risk that other users may leave the gate open. However, the gate would not be the only means of preventing access to both the proposed dwelling and neighbouring properties; it would also be in the shared interest of all users to lock the gate. The proposed scheme would also introduce an element of natural surveillance and the proposed lighting would increase visibility in the area. Security lighting is regularly used in garden areas and the proposed lighting is unlikely to result in disturbance to neighbouring occupants. There is also no substantive evidence before me to demonstrate that the appeal site is within an area where there is a high crime rate, or that the proposed dwelling would be particularly vulnerable to acts of crime.
11. The dwelling would not be an excessive distance from the highway and the intercom system would allow future occupants to be aware of deliveries or visitors to the property. This arrangement would be similar to any gated property or a flatted development with a main access point. Hence, the proposal would allow for the efficient delivery of goods.
12. Based on the information before me the distance between the proposed dwelling would be within 90m of the road and a fire safety hose could reach it from the highway. This along with the installation of alarms and a fire sprinkler system would ensure that the property would accord with current fire safety

standards. Concerns were also raised regarding the potential for parked cars on the street to restrict access to fire safety vehicles. However, as detailed above it would be possible for fire safety equipment to operate from the street.

13. The Council state that the Fire Brigade did not provide a consultation response in relation to the scheme. While I do not consider a lack of response as 'no objection' on this matter, there is no substantive evidence before me to demonstrate that the proposal would harm the health and safety of future occupants in terms of fire safety.
14. The scheme includes a refuse store that would be adjacent to the proposed dwelling. The appellant proposes to place bins out on the street on collection day. The Council have provided no reasons to justify why this would not be a suitable arrangement for waste collection.
15. For the reasons detailed above the proposed development would provide suitable living conditions for future occupants with regard to access, fire safety and the provision of waste disposal facilities. As such, the proposal would be in accordance with Policy D5 of the London Plan 2021, Policy CP3 of the Local Development Framework Planning for the future of Barking and Dagenham Core Strategy 2010, Policies BP8, BP11 and BR11 of the Local Development Framework Planning for the future of Barking and Dagenham Borough Wide Development Policies Development Plan Document 2011. These policies require that new development should protect and maintain residential amenity and be legible, usable, permeable, and accessible. Taking in to account safe, secure, convenient, accessible and direct access for pedestrians and cyclists to, from and within development.
16. Policies SP2 and SP8 of the London Borough of Barking and Dagenham Draft Local Plan 2037, Second Revised Regulation 19 Consultation Version Autumn 2021, are a material consideration and the proposal would also be in accordance with these policies which seek to promote sustainable travel and provide safe, convenient, accessible and inclusive developments.

Other Matters

17. I have given consideration to the other matters have been raised by interested parties. The Council has raised no concerns regarding the impact of the proposal on the character and appearance of the area, impact on parking or the living conditions of the occupants of neighbouring properties. The capacity, siting, scale and design of the proposed dwelling is such that I find no reason to disagree with the Council in this regard. Further, in removing permitted development rights, any proposals to extend the proposed dwelling would require planning permission.
18. My attention has also been drawn to a dispute regarding ownership of the access to the appeal site. My assessment is based on the plans before me which indicate that the appeal site, which is under the ownership of the appellant, extends to approximately half of the width of the access from Mayswood Gardens.
19. Concerns have also been raised regarding a lack of services within the site. However, there is no substantive evidence before me to indicate that services could not be connected within the appeal site.

Conditions

20. I have considered the conditions put forward by the Council and the appellant's comments on them. I have included those conditions that meet the tests set out at paragraph 56 of the Framework, with some minor editing of the suggested wording for precision and enforceability.
21. I have attached conditions relating to the time limitations for the commencement of the development and compliance with the approved plans in the interests of clarity and certainty.
22. In order to ensure the protection of the character and appearance of the area conditions have been included for the submission of details of external materials and a landscaping plan as well as its implementation.
23. Conditions requiring the submission of a Construction Environmental Management Plan and Construction Logistics Plan have been applied in the interests of residential amenity and highway safety and the free flow of traffic.
24. Conditions relating to cycle parking and storage and waste storage and collection arrangements are required to ensure that satisfactory provision is made to protect the appearance of the area and meet the requirements of future occupants.
25. A condition removing permitted development rights has also been included due to the constrained nature of the site its location. Also, a condition requiring a contaminated land assessment and any necessary mitigation works is required in order to minimise risks to health and safety from land contamination.

Conclusion

26. For the reasons given above the appeal should be allowed.

C Livingstone

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing Nos P02 A, P03 A, P04 A, Location Plan Rev A.
- 3) No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall commence, including any works of demolition, until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. This Plan shall incorporate details of:
 - i. the parking of site operatives' vehicles ;
 - ii. loading and unloading of plant and materials;
 - iii. storage of plant and materials used in constructing the development;
 - iv. measures to control the emission of dust, dirt and emissions to air during construction; such measures to accord with the guidance provided in the document The Control of Dust and Emissions during Construction and Demolition, Mayor of London, July 2014;
 - v. noise and vibration control;
 - vi. a waste management plan for recycling/disposing of waste resulting from demolition and construction works.

Demolition and construction work and associated activities, other than internal works inaudible outside the site boundary, are only to be carried out between the hours of 08:00 and 18:00 Monday to Friday and 08:00 and 13:00 Saturday, with no work on Sundays or public holidays without the prior written permission of the Local Planning Authority. Any works which are associated with the generation of ground borne vibration are only to be carried out between the hours of 08:00 and 18:00 Monday to Friday.

Demolition and construction work and associated activities are to be carried out in accordance with the recommendations contained within British Standard 5228:2009, Code of practice for noise and vibration control on construction and open sites, Parts 1 and 2.

Once approved the Plan shall be adhered to throughout the construction period for the development.

- 5) No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been

submitted to and approved in writing by the local planning authority. If any contamination is found, no development shall take place until:

- i. a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;
- ii. the site has been remediated in accordance with the approved measures and timescale; and
- iii. a verification report has been submitted to and approved in writing by the local planning authority.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:

- i. additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and
- ii. a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.

- 6) Prior to commencement of the development, a Construction Logistics Plan in line with the TfL guidelines shall be submitted to and approved in writing by the Council. The details shall include the numbers, size and routes of construction vehicles, provisions within/around the site to ensure that all vehicles associated with the construction works are properly managed to prevent any unwanted disruption to other highway users, and other matters relating to traffic management to be agreed with the licencing officers of the council. Approved details shall be implemented throughout the project period and any changes to the document must be reported back to the council's planning and highways department.
- 7) No development shall commence until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include details of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 8) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 9) Prior to occupation of the dwelling hereby permitted, details of cycle parking spaces and cycle storage facilities shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the details approved under this condition prior to the occupation of the dwelling and retained as such thereafter.
- 10) Prior to occupation of the dwelling hereby permitted, details of enclosures and screened facilities for the storage of recycling containers and

wheeled refuse bins or other refuse storage containers where applicable, together with satisfactory collection points, shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the details approved under this condition prior to the first occupation of the dwelling and retained as such thereafter.

- 11) 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 development falling within Classes A, B, C and E in Part 1 of Schedule 2 to that Order shall be carried out without the prior written permission of the Local Planning Authority.

*****END OF CONDITIONS*****