
Appeal Decision

Site visit made on 21 August 2024

by T Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2024

Appeal Ref: APP/Z5060/W/23/3333959

2-4 Bull Public House, Store At Rear Of, North Street, Barking and Dagenham, Barking IG11 8ET

- 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 R Singh (Samsen Ltd) against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref 23/00542/FULL, dated 28 March 2023, was refused by notice dated 6 June 2023.
 - The development proposed is Erection of a 5 storey building comprising 5 flats (C3 Use), with 12 secure cycle parking spaces, associated refuse storage, private amenity, Rain Garden, Green Roof and Living Green Walls.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of the proposal varies from the application form to the decision notice. That on the application form adequately describes the proposal and I have considered it on that basis.
3. An Archaeological Desk Based Assessment¹ (ADBA) has been submitted in support of the appeal which post-dates the Council decision notice. The decision notice detailed that information related to this matter was not submitted with the application and a refusal reason was included on this basis. I have taken this report into account.
4. The nearby listed building, the Curfew Tower is identified within the Council's report as being grade II listed although the ADBA identifies this as grade II* listed. I have considered the proposal on this basis.
5. The London Borough of Barking and Dagenham Local Plan 2020-2037 (BDLP) was adopted in September 2024. I am advised that this supersedes the Core Strategy (2010), the Local Development Framework Borough Wide Development Plan Document (2011) and the submission version of the Barking and Dagenham Local Plan. I must make my decision based on the policies contained within the most up to date local plan and I have determined the appeal on that basis.

¹ Archaeological Desk Based Assessment, Land to the rear of Nos 2-4 North Street, Barking by RPS, December 2023.

6. At the time of my site visit the ground floor of the building appeared to be in operation as De Roya Lounge Grill and Bar. The ground floor façade included an access to the Dreams Hotel. At the same site visit I observed that the part of the site which is subject to this appeal was covered with a single storey structure. A vacant single storey outbuilding constructed to provide a beer garden for the public house during the Covid-19 pandemic, now disused and vacant/underused storage floorspace are described within the Design and Access Statement.

Application for costs

7. An application for costs was made by Mr R Singh (Samsen Ltd) against the Council of the London Borough of Barking & Dagenham. This application is the subject of a separate decision.

Main Issues

8. The first main issue is the effect of the proposal on the character and appearance of the Abbey and Barking Town Centre Conservation Area (the Conservation Area) and the effect of the proposal on the setting of the Bull Public House (BPH). The second main issue is the effect of the proposal on the setting of the Curfew Tower and Barking Abbey Scheduled Monument. The third main issue is the effect of the proposal on the living conditions of existing and future occupiers. The fourth is whether the proposal would compromise the operation or viability of the public house use.

Reasons

Conservation Area & Bull Public House

9. The appeal site and building proposed is and would be partially within the Conservation Area. The northern side of East Street within the vicinity of the appeal site is formed of the BPH along with further well established properties with retail premises at ground floor level. The site is set back, between these two blocks of development. I note the extensive modern development incorporating an Asda superstore to the north.
10. Both the BPH and the next set of buildings at 1 East Street, 3 East Street and beyond (ES) appear to be of some age and are of established form and design. They incorporate traditional design features including pitched roofs, repeated window openings with a vertical emphasis with part brick finishing and other detailing to their east street facing elevations.
11. The significance of the Conservation Area therefore in part sits with the form, scale, materials and detailing of its buildings and the buildings fronting east street on its northern side make a positive contribution to its significance.
12. Although set back from East Street, the proposed building would be visible in views between the two buildings from East Street. It is also likely that due to the height of the proposed building, set at a greater height than both the BPH and ES, there would from some points be visibility of the proposal above those buildings. Private views from existing buildings would also be likely to be available.

13. Within those views, the proposed building, which would be of modern design with a flat roof would contrast sharply with the form, scale and detailing on the established buildings within this part of the Conservation Area.
14. The proposal would therefore detract from the significance of the Conservation Area and would harm its character and appearance. The level of harm would be less than substantial.
15. The BPH has been identified as a non-designated heritage asset within the evidence. It is a large building which occupies a prominent position dominating the corner of North Street and East Street and incorporates traditional form, scale, and detailing. These factors contribute positively to its significance.
16. The introduction of a tall, prominent building of modern appearance at the appeal site to the rear and side of the BPH would compete with the primacy of the BPH on its corner location. Regardless of the status of the existing single storey structure that was occupying the site at the time of my visit it is nonetheless much less conspicuous than the proposed building would be. The proposal would therefore have a detrimental impact on the significance of the BPH as it would fail to preserve its setting.
17. There would therefore be conflict with Policy HC1 of the London Plan (2021) (LP) and policies SP2, DMD4 and DMD1 of the BDLP. Amongst other things these policies require that development proposals affecting heritage assets and their settings should conserve their significance. New development should sustain and enhance the significance of the boroughs historic environment. They further state that high quality design will be promoted including through ensuring that developments relate to their local context. There would also be conflict with SPG guidance² relating to the protection of the Abbey and Barking Town Centre Conservation Area.
18. Policy DMD5 of the BDLP does not appear to have so much direct relevance, relating instead to householder extensions and alterations. I have not been supplied with Policy D8 of the LP.

Barking Abbey & Curfew Tower

19. The eastern boundary of the extent of the Barking Abbey Scheduled Monument designation is located approximately 45m to the west of the appeal site. The monument includes the remains of a Benedictine stone abbey. The Curfew Tower, a 15th century gate tower with upper chapel is set across from the site aligned with the end of East Street and set across from North Street. The evidence indicates the Curfew Tower is excluded from the scheduling and is Grade II* listed.
20. The immediate setting of Barking Abbey is formed of its grounds including the churchyard and green areas surrounding St Margaret's Church and the Curfew Tower. Barking Abbey and the Curfew Tower are contained within their own attractive and separate setting to the wider developed area across north road and along east street and it is this aspect of their setting which makes a positive contribution to their significance.
21. The proposal would not therefore detract from the significance of these heritage assets as it would be set away from that area and the setting of

² Barking Town Centre Area Action Plan (2011).

Barking Abbey and the Curfew Tower would be preserved. I have not therefore identified conflict with the heritage related policies of the LP and BDLP with regard to this particular matter.

Living conditions

22. The windows serving Bedrooms 01 and 02 of the ground floor unit would be particularly constrained by the tall boundary wall separating the appeal site from the Asda car park access and potential boundary treatment on the eastern side of the site. Bedroom 02 would have a sole north facing window and both rooms would have a substantial degree of depth. Even accounting for the urban location, it is therefore likely that the levels of daylight and sunlight to these rooms would be severely compromised.
23. With regard to daylight and sunlight impacts to nearby buildings a maximum envelope study has been submitted. The building identified within the study differs from that which is before me on the submitted plans. It appears to assess the maximum envelope in terms of the impact on the vertical sky component of nearby buildings. However, it identifies a number of failures of the vertical sky component that would occur with regard to the windows of nearby buildings.
24. There does not appear to be any further study to identify the impact of the proposed building as put forward within the plans. I cannot therefore be certain that the failures identified within the envelope study would not manifest within the actual proposed building the proposal. I cannot therefore be sure that the proposal would not result in any significant adverse impact on the living conditions of nearby occupiers with regard to daylight and sunlight.
25. The proposal would conflict with policies D6 of the LP and SP2 and DMD1 of the BDLP. Amongst other things these policies require well designed homes which consider the impact on the amenity of neighbouring properties and that the design of development should provide sufficient daylight and sunlight to new and surrounding housing that is appropriate to its context.
26. I do not have any significant concern in relation to the effect of the proposal on the outlook or privacy of any occupiers of properties on East Street due to the location of the site within a highly developed urban environment and the positioning of the existing windows and those on the appeal scheme.
27. Whilst the privacy of and outlook from the external amenity spaces proposed would in some cases be limited, these would be acceptable in relation to this particular proposal given the highly developed urban location of the appeal site. The positioning of some external amenity space to the front of the building would introduce some observation and activity close to the access to the building. The access would also be subject to some overlooking from existing windows on nearby buildings. I do not therefore consider the access arrangements for this particular proposal would be unacceptable. The evidence indicates any light industrial use of the appeal site was in the past.

Viability of the existing public house

28. The proposal would utilise a large proportion of the space to the side of the BPH which is currently covered by a single storey structure. The premises was open and running at the time of my visit. Further, there is nothing within the

evidence to convince me that the space is essential to the operation of a public house use at the site.

29. I cannot therefore reasonably conclude that the proposal would compromise the operation or viability of the existing public house use as a result of development of the type proposed.
30. The proposal would not therefore conflict with policies HC7, SD6, S1 or GG1 of the LP nor policies DMS3, DME3 and SP4 of the BDLP which broadly seek to protect public houses and community uses whilst encouraging mixed and inclusive communities and protecting town centres.

Other Matters

31. I note that no existing floor plans, elevations or sections have been submitted. However, it appears the application was validated nonetheless and I have been able to visit the site to understand the existing situation prior to determining the appeal.
32. Amended details have been submitted with the appeal aimed at correcting errors in earlier submitted plans including the inclusion of a previously omitted door on the ground floor. The changes are minor in nature and I have considered those as part of the appeal.
33. The ADBA concludes that in this case, further archaeological investigation, if required could be secured through the addition of a planning condition/s requiring such investigations. Were I minded to allow the appeal, I would have no reason to disagree with this approach.

Planning Balance and Conclusion

34. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.
35. The appellant identifies a shortfall with regard to housing delivery test figures. However, even if that were the case, given the harm that would be caused to the designated heritage asset as a result of the scheme, having regard to Footnote 7, the application of Framework policies relating to designated heritage assets provide a clear reason for refusing the development proposed. The balance in paragraph 11(d)(ii) of the Framework does not therefore apply.
36. The proposal would include public benefits and would contribute towards housing supply and mix providing units which would meet the nationally described space standards and could provide some presence within the area to assist in reducing issues of anti-social behaviour that is alleged within the immediate vicinity of the appeal site. The evidence indicates that the building would incorporate various features to ensure it is sustainable within a sustainable location with good access to local transport links. There would be economic benefits of the type usually attributed to the scale of development proposed.
37. The proposal would cause less than substantial harm to the significance of the Conservation Area and would fail to preserve or enhance the character or appearance of the Conservation Area, a matter which I am required to pay special attention to. The public benefits would not outweigh the harm. The

Framework requires that great weight should be given to the conservation of designated heritage assets.

38. The proposal would fail to preserve the setting of the BPH, a non-designated heritage asset, and the proposal would be likely to give rise to harm to the living conditions of future occupiers, whilst harm to the living conditions of nearby occupiers cannot be ruled out. These matters weigh against the scheme. The adverse impacts identified outweigh the benefits of the scheme.
39. There are no material considerations to indicate that the decision should be made otherwise than in accordance with the development plan with which the proposal would conflict. I therefore conclude that the appeal should be dismissed.

T Burnham

INSPECTOR