



Appeal Decision

Site visit made on 8 November 2024

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2025

Appeal Ref: APP/Z5060/W/24/3345218

2 Verney Road, Dagenham RM9 5LL

- 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 Mr Volodymyr Kens against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref is 24/00254/FULL.
 - The development proposed is described as the conversion of 4-bedroom house into 6-bedroom HMO.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the original decision the Council have adopted the Barking and Dagenham Local Plan (2024). This replaces the Barking and Dagenham Core Strategy (2010) and Borough Wide Development Policies DPD (2011) such that the policies of those plans cited on the decision notice are no longer part of the development plan and have no weight. I have therefore considered the relevant policies within the Barking and Dagenham Local Plan (2024). Both main parties have commented on the implications of the new local plan in the consideration of the appeal.
3. On 12 December 2024 the Government published a revised National Planning Policy Framework (the Framework). The revised Framework was accompanied by a written ministerial statement (WMS). Having regard to the main issues in this appeal, it has not been necessary to invite submissions from the parties on the revisions that have been made to the Framework.

Main Issues

4. The main issues are 1) whether or not, having regard to development plan policy, the proposed development would result in the loss of family housing and is suitable for an HMO, and 2) the effect of the proposed development on highway safety with regard to parking.

Reasons

Family housing/HMO

5. The appeal property is an extended two-storey end of terrace dwelling. It is located on the corner of Wood Lane and Verney Road.

6. Policy DMH5 of the Barking and Dagenham Local Plan (2024) outlines that new HMOs will only be supported where they: a) meet an identified need, b) do not result in the loss of housing capable of accommodating families with children, c) do not result in the loss of character or amenity to the area as a consequence of increased traffic, noise or general disturbance, d) are located in an area of high transport accessibility, e) comply with relevant standards, including those set out in the East London HMO Guidance and satisfy the housing space standards outlined in the London Plan 2021 Policy D6: housing quality and standards, and/or its relevant guidance. It also states that proposals for conversions or loss of dwelling houses capable of accommodating a family with children will be resisted.
7. In the current appeal there is limited substantive evidence that the proposed development would meet an identified need. The appeal property is described in the description of proposal as a 4-bedroom house. Although it has been significantly extended, there is no reason it could not be occupied by a family requiring a spacious property, a large family unit or an extended family. The fact is also that the property was a family dwelling when the extensions were undertaken, suggesting there was/is demand for a property of this size.
8. The appellant suggests that they have undertaken marketing of the property which has shown the property is not capable of being occupied as a family dwelling. No such evidence has however been submitted with the appeal to demonstrate that this is the case.
9. The extensions to the property, whether by the appellant or a previous owner, have been deliberate interventions to give the property its current size and resultant amount of amenity space. It would therefore be somewhat amiss to conclude that it is not appropriate for family living when it would appear that the property, like those it surrounds, were intentionally built as family dwellings. Furthermore, it is not wholly uncommon for properties to be significantly extended from their original form yet remain as family dwellings.
10. I acknowledge that the quantum of amenity space is not overly generous, however there is a small useable area to the rear of the property and this does not lead me to conclude it is unsuitable for family occupation.
11. Having regard to the other criteria of the policy, whilst the property is located close to a busy road with bus stops, it has a PTAL (public transport accessibility level) rating of 2. Therefore, despite the location of bus stops, given the low PTAL rating, which is a well-established method of measuring public transport accessibility, it is evident that the site is not in an area of high transport accessibility as is required by the policy.
12. In terms of the requirement that such proposals comply with relevant standards, including those set out in the East London HMO Guidance, proposed bedrooms 1 and 5 would be marginally less than the minimum required in the guidance, that being 8.5sqm. Although, as the appellant suggests, this could be rectified by internal remodelling, this has not been shown on the plans before me.
13. The proposed development would therefore result in the loss of a dwelling house capable of accommodating a family with children and would be in direct conflict with the policy designed to protect such housing. It has also not been demonstrated that there is an identified need, and the proposed development would not be located in an area of high public transport accessibility as is required.

For these reasons, the proposed development would be contrary to Policy DMH5 of the Barking and Dagenham Local Plan (2024) as set out above.

Highway safety

14. The appellant outlines how the appeal site is capable of accommodating two vehicles parked within the site boundary. There is a residential parking permit scheme in operation on the street. Although the site has a low PTAL rating, I accept that, as the appellant highlights, there are bus stops nearby. The site is also capable of accommodating cycle parking.
15. The existing property would generate an existing level of parking demand. Given its size, it would be quite likely that it would be occupied by a large or extended family where the parking demand would likely exceed that of a smaller dwelling.
16. Having regard to the above factors I consider that the proposed development would not result in a parking demand that would translate to causing demonstrable harm to highway safety.
17. I note that the appellant would also be willing to enter into a legal agreement to prevent occupiers from securing parking permits. The Council however consider that this would not prevent residents parking on Wood Lane. No such agreement is submitted with the appeal. Had I allowed the appeal I would have considered imposing an appropriately worded planning condition requiring the arrangements to have been made to secure the development as a car-free development prior to occupation. I am not convinced from the evidence submitted that allowing the appeal would have resulted in a severe highways impact due to the parking of a small number of vehicles on Wood Lane.
18. I therefore conclude that the proposed development would not cause harm to highway safety in terms of parking. It would comply with Policy DMT2 of the Barking and Dagenham Local Plan (2024) and Policy T6.1 of the London Plan (2021) in terms of ensuring areas are not significantly impacted by the additional cars from a development.

Other Matters

19. Reference is made to the financial outlay in terms of mortgage payments and bills. In terms of viability, there is limited substantive evidence before me. The Planning Practice Guidance is also clear that under no circumstances will the price paid for land be a relevant justification for failing to accord with relevant policies in the plan.
20. I acknowledge the appellant's personal commitment to assisting those affected by war. Whilst such efforts are highly commendable, they have limited weight in terms of land use planning matters and do not outweigh the development plan conflict in this case.
21. The appellant outlines how the existing property could be occupied by 8 to 10 people, and this would be likely to cause more noise and disturbance than the proposed development. The matter of noise and disturbance is not, however, pertinent to the main issues, and I therefore give this limited weight in the appeal.

22. The appellant has referred to a planning permission¹ at 264 Rainham Road South where this Council granted planning permission to change the use of the upper floors from a single dwelling to an HMO. In that case, it was acknowledged that the development would result in the loss of a property capable of family occupation, however given, amongst other things, it was located in a neighbourhood centre closer to public transport hubs, it was considered to justify departing from the policy. This is materially different to this appeal, and I therefore give this limited weight. It also pre-dates the current development plan. Either way, I am not bound by that decision and have determined this appeal on its own individual planning merits.
23. I have also been referred to an appeal decision² where an Inspector allowed an appeal to change the use of a property from a dwellinghouse (use class C3) to a housing in multiple occupation (use class C4). The main issues in that appeal are different to those in the current appeal. It also relates to a different authority, some distance from this appeal site, which has a different local plan and guidance. For these collective reasons, I give it limited weight in the appeal.

Conclusion

24. Section 38(6) of the Planning and Compulsory Purchase Act, 2004 outlines that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
25. The proposed development conflicts with the development plan and there are no identified other considerations, including the National Planning Policy Framework, that outweigh this conflict.
26. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR

¹ 21/01714/FULL

² APP/X2410/W/16/3163895