Appeal Decision
Site visit made on 9 October 2018
by A Parkin  BA (Hons) DipTP MRTPI
an Inspector appointed by the Secretary of State
Decision date: 21 December 2018

Appeal Ref: APP/Z5060/W/18/3206016
86 Faircross Avenue, Barking IG11 8QZ
• 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 Kevin Donovan against the decision of the Council of the London Borough of Barking & Dagenham.
• The application Ref 18/00392/FUL, dated 5 March 2018, was refused by notice dated 2 May 2018.
• The development proposed is to subdivide the existing dwelling into one one-bedroom flat and one-two bedroom flat. Also change the use of the Annexe in the rear of that garden to create a one-bedroom flat.

Decision
1. The appeal is dismissed.

Preliminary Matters
2. The Government published the revised National Planning Policy Framework (the Framework) on 24 July 2018. The appellant was notified of the publication and invited to make comments, and the Council were notified of this action. No representations have been received in relation to this matter within the specified timescales.

3. The appellant has submitted revised plans as part of this appeal, which show revisions to the internal layouts of both the main building and the annex, including an additional bedroom to the annex, and changes to the external amenity areas. The appellant states that these changes show how the Council’s concerns with regards external and internal spaces and layout could be addressed. Government guidance\(^1\) states that alternative proposals, such as this, should normally be addressed through a new planning application, rather than at appeal.

4. I have had regard to the ‘Wheatcroft principles’\(^2\) and I am satisfied the nature of the proposed development would be materially altered by the revised plans and that interested parties may, therefore, be disadvantaged. I have therefore determined this appeal on the basis of the information on which the Council refused planning permission, and I have had no regard to the revised plans.

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\(^1\) Annexe M.1.1 and M.2.1 of Planning appeals – England: Procedural Guide

\(^2\) Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

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Main Issues

5. The main issues are:
   - the effect of the proposed development on the housing needs of the area
   - whether the proposed development would provide acceptable living conditions for future occupants, having particular regard to noise and disturbance, external amenity space and internal space within the annex.

Reasons

Housing needs of the area

6. Policy BC4 of the Borough Wide Development Policies Development Plan Document 2011 (BWDP) concerns residential conversions, including the subdivision of larger homes. Through the policy, the Council is seeking to preserve and increase the stock of family homes in the Borough, and consequently resist proposals which involve the loss of homes with three or more bedrooms.

7. The information submitted by the appellant is inconsistent in terms of the number of existing bedrooms within the main building. The application form states that there are three existing bedrooms, whilst the appeal statement states that there are five existing bedrooms. From my visit to the site there appeared to be more than three rooms which could be classed as bedrooms, but which were unfurnished, and I have considered the existing situation to be 3+bedrooms. As such, the proposed development would convert a 3+bed house into a 1-bed flat and a 2-bed flat and would therefore be in direct conflict with Policy BC4 of the BWDP.

8. The appellant refers to the Outer North East London Strategic Housing Market Assessment 2016 (SHMA) which indicates that there is a forecast demand of 11,500 one and two bedroomed homes across both the market and affordable housing sectors in the Borough between 2011 and 2033. However, the SHMA also indicates that if market and affordable housing were considered for homes with three or more bedrooms, consistent with Policy BC4, there would be a forecast demand of 16,300 units in the Borough over the same time period.

9. The SHMA does show that forecast demand for four and five bedroomeed homes is considerably less than for three bedroomeed homes, but nevertheless there is a forecast demand in the Borough for this size of home. Furthermore, the Council states that they are only achieving around half of their annual family sized housing delivery targets.

10. I note the appellant’s comments questioning the SHMA figures in light of the expected reduction in inward migration following the European Union referendum and that the Council has stated that the SHMA is currently being reviewed. However, based on the information before me, there is no substantive evidence that Policy BC4 is out of date and I note that this is not a matter of dispute between the parties.

11. The loss of a three / four / five bedroom home and its replacement with two smaller flats would, in my view, be harmful to the housing needs of the area. The proposal would therefore conflict with Policy BC4 of the BWDP and with the Framework in this regard.
Living Conditions of future occupants

12. The proposed layout of the main house, shown on drawing 1807 101, would be likely to cause noise disturbance problems between the ground floor flat and the upper floor flat, due to the positions of the respective kitchen / dining rooms and bedrooms.

13. The appellant has not disputed this issue, and sought to address it through revised plans, which for the reasons set out above I have not considered in determining this appeal.

14. Drawing 1807 100 shows the external amenity spaces for the three proposed flats. These are located between the rear elevation of the main building and the front elevation of the annex and are shown as subdivided. It is not clear to me how the three private amenity spaces would be demarcated as the drawing is not annotated in this respect.

15. The outdoor space for the upper floor flat would be overlooked from the ground floor flat’s rear doorway, and would be divided into two to allow pedestrian access to the annex, thus harming its functionality as private space. The upper floor flat’s rear bedroom window would also overlook the ground floor flat’s outdoor space, which would be detrimental to the privacy of future occupiers.

16. There is no concern over the size of the outdoor space for the annex. However, the Council states that the size of the outdoor spaces for the flats would be below the minimum standards contained in Policy BP5 (external amenity space) of the BWDP and has provided rough size calculations to support this.

17. The appellant has sought to address some of these issues through revised plans, which for the reasons set out above I have not considered in determining this appeal. In addition, the appellant maintains that the amount of external space would be larger than a 1-bed flat on a contemporary development would expect to enjoy. This statement does not alter the levels contained in Policy BP5 of the BWDP, and in any event, one of the proposed flats would have 2-beds.

18. There is no dispute between the parties that the proposal for the annex would not meet the Government’s Technical housing standards – nationally described space standard 2015. The appellant notes that these standards apply to new dwellings. The proposal would be for the creation of a new dwelling in the annex; the previous lawful use of the building was as an annex for dependents, ancillary to the main building.

19. Furthermore, from my observations on site, the internal layout and at first floor level the sloping roof, would create a somewhat cramped living space within the annex. Whilst this was considered acceptable for the previous use of the annex for dependent occupiers, it would not, in my view, be acceptable for a standalone living space.

20. For the reasons set out above the proposed development would not provide acceptable living conditions for future occupants, having particular regard to noise and disturbance, external amenity space for the main building, and

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3 These spaces are private spaces, distinct from the external car parking area, the bin and cycle storage area and pedestrian access routes.
internal space within the annex. It would therefore conflict with Policies BP5 (external space), BP8 (residential amenity), BP11 (urban design) of the BWDP, with Policy CP3 (high quality built environment) of the Core Strategy 2010, with Policies 7.15 (reducing and managing noise) and 3.5 (quality and design of housing) of the London Plan 2016\(^4\), and with the Framework in this regard.

**Other Matters**

21. No substantive evidence has been presented to me concerning the previous use of the property as a House in Multiple Occupation (HMO) with the annex as an independent dwelling, and I have, therefore, only had very limited and non-determinative regard to this in reaching my decision.

22. I note the appellant’s comments in relation to an appeal decision referred to by the Council, and with regard to similar developments elsewhere on Faircross Avenue. I am not familiar with the appeal decision or with these other developments, and in any event, each case should be determined on its own merits.

23. I also note the appellant’s comments in relation to the proposal being more of a change of use than a conversion; to the current housing mix on Faircross Avenue; and, that the large size of the property limits demand for it. None of these points cause me to reach a different conclusion in relation to this appeal, which I have considered on the information before me and on its individual merits.

**Conclusion**

24. For the reasons set out above, I conclude that the appeal should be dismissed.

*Andrew Parkin*

INSPECTOR

\(^4\) The Spatial Development Strategy for London Consolidated with Alterations Since 2011

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