



Appeal Decision

Site visit made on 18 February 2020

by Edward Cousins BA, BL, LLM, Barrister

an Inspector appointed by the Secretary of State

Decision date: 12 June 2020

Appeal Ref: APP/J1535/W/19/3234378
158 Queen's Road, Buckhurst Hill, IG9 5BD

- 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 Chambos Sofroniou against the decision of Epping Forest District Council.
 - The application EPF/0694/19, dated 4 March 2019, was refused by notice dated 5 July 2019.
 - The development proposed is: erection of new part two and part three storey building to the rear of the property containing seven flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

Previous appeal

2. On 28 June 2016 planning permission was granted on appeal (APP/J1535/W/16/3145840) for the "demolition of the existing outbuildings to the rear of 158 Queens Road. Two new residential units proposed to the rear. (Two 1 beds & two 2 bed flats). Ground floor rear extension of the retail unit proposed. First floor part rear extension proposed. New gable roof proposed with 3 dormer windows."
3. Although it was apparent on the Site View that demolition of the existing buildings on the appeal site had occurred, planning permission lapsed on 28 June 2018. The reasons for this are that no application had been received by the local planning authority to discharge the pre-commencement condition imposed, and there was no evidence that the development itself had been commenced.
4. The appellant considers that the proposed development of the appeal site is only marginally different to the previous grant of permission. He asserts that the current scheme only refers to the building to be constructed to the rear of the appeal site, and not to other matters that were the subject matter of the grant of planning permission. Further, although there has been an increase in the number flats from 4 to 7, the size and capacity of these flats is reduced.
5. However, there are material differences between the two applications to such an extent that no reasonable comparison can be drawn. In particular, the original proposed development envisaged the construction of a pair of two and

a half storey dormered blocks, with parapet mansard roofs, comprising two 1 bedroom units at ground floor and two 2 bedroom maisonettes above. There was to be an external staircase, and a gap of approximately two metres between the two blocks. Five car parking spaces would be provided in the courtyard area between the front and rear blocks. Whereas, the proposed development would envisage the construction of a substantial three storey building on the appeal site that would be divided into three sections, or "bays", in which seven flats would be formed.

6. Thus, the proposed scheme cannot be described as being "slightly larger" than the original proposal. In essence therefore the proposed development is not comparable to the former scheme, and I therefore consider it on its own merits.

Main Issues

7. The main issues in this appeal are:

- (1) The effect of the proposed development on the character and appearance of the area;
- (2) The effect on the living conditions of future residents of the proposed development with particular regard to the means of access to the site by means of a narrow private lane from Queens Road, floorspace, layout, availability of usable and secure private amenity space and privacy.
- (3) The effect of the proposed development on the living conditions of the occupants of neighbouring properties, having particular regard to outlook, light and privacy.
- (4) The adverse effect that the proposed development would have on existing trees both within and adjacent to the proposed development.

Reasons

Character and appearance

8. The western section of Queen's Road is formed of a number of shops, some of which have residential developments behind. The adjacent properties downhill from the appeal site leading to Buckhurst Hill Underground Railway Station to the east are fully residential.
9. The appeal site comprises a large backland site behind No 158 Queens Road, an existing commercial unit on Queens Road. Immediately to the south of the appeal site are the rear gardens of houses on Princes Road.
10. Within the forbiddingly dense structure comprising the proposed development seven flats would be formed, namely two studio flats (flats 2 and 5), four one bedroom flats (flats 1, 3, 4, and 6), and one two bedroom flat (flat 7). The front central section of the proposed development would comprise the stairwell and staircase serving five flats, namely flats 2, 4, 5, 6, and 7. It is proposed that flats 1, 2 and 3 would be situated on the ground floor, flats 1 and 3 having direct independent access to the parking and access area and roadway to the north. Flat 2 would be situated in the central section. The eastern section would

- comprise Flats 1 and 4, and the western section would comprise flats 3 and 6. The whole of the third floor would comprise flat 7 which would include a roof terrace. The configuration of the central section of the building would be set further back from the western and eastern sections in order to accommodate the stairwell and staircase at the front of the building.
11. The proposed development would be a full width structure on the appeal site in that the proposed building would be constructed immediately adjacent to the western and eastern boundaries of the plot. This would undoubtedly raise future issues such as potential problems with overhanging eaves and guttering, together with access to the flank walls.
 12. In such circumstances, I find that the proposed development would be wholly inappropriate given the constrained nature of the appeal site. As a backland site, it requires particularly sensitive treatment by reason of siting, mass and scale, and proximity to neighbouring properties. I consider that the proposed development would be out of keeping with, and would overwhelm and fail to respect the integrity of, the current relationship between it and its neighbours both on its western and southern borders. The proposed design would have a strikingly obtrusive and harsh visual impact by reason of its insensitive scaling and design. Accordingly, it would fail to respect, the character and sympathy of the neighbouring properties.
 13. I therefore find that the proposed development would be out of harmony with the scale and character of the neighbouring properties. In particular, the unrelieved flank elevation to its western side would have a considerable negative impact upon the occupants of Lily Mews. The proposed development would be characterised by its bulk and mass across the entire plot. It is therefore in breach of paragraph 130 of the National Planning Policy Framework (Achieving well-designed places) (the Framework).
 14. As a consequence, the proposed development would fail to make a positive contribution to, and would not enhance, the character or appearance of the surrounding area.
 15. Accordingly, the proposed development would be contrary to Policies CP2 (Protecting the Quality of the Rural and Built Environment), CP7 (Urban Form and Quality), DBE1 (Design of new buildings), DBE2 (Effect on neighbouring properties), DBE3 (Design in Urban areas) and DBE 9 (Loss of amenity) of the Epping District Council Local Plan 1998 and Alterations 2008, Policies DM2 (Epping Forest SAC and the Lee Valley SPA), DM9 (High quality design), DM 10 (Housing design and quality), and DB22(Air quality) of the Local Plan Submission Version 2017, and paragraph 130 of the Framework (Achieving well-designed places).

Living conditions of future occupiers

16. In so far as private amenity space for future occupiers is concerned, flats 1, 2 and 3 would have cramped and intimate rear southern facing areas. In the case of flats 1 and 3 the size of each space is approximately 27 square metres. Flat 2 is marginally smaller at approximately 24 square metres. Each unit would therefore have quite constrained outside amenity space which would be overshadowed by trees along the boundary with the properties to the south.

17. In this context, the fact that the central section of the proposed development would be set back would impinge on and thereby reduce the amenity space of flat 2 at its rear. Flats 4, 5 and 6 have no private outdoor amenity space, but instead each has a "Juliet" balcony with full width sliding doors. Such a feature would be no substitute for private outside amenity space. It is also to be noted that flats 2 and 3 would have only limited fenestration on their southern flank.
18. As to the internal layout of the flats, the position with regard to flats 2 and 3 is particularly challenging in that they have the further disadvantage as both flats would abut the stairwell to the north. This would provide a further constraint on the use and enjoyment of both flats by virtue of the constant passage of visitors and occupants to the proposed development.
19. I also find that the accommodation within the proposed development would generally manifest an intimate, cramped and haphazard layout. The impression would be given of the squeezing into the appeal site the maximum number of units possible to be accommodated within the proposed structure. All of this would be to the detriment of the occupiers.
20. Finally, access from Queens Road to the north to the front of the proposed development would lie along a narrow private lane to the east side of no 158. This access would serve not only the rear of no 158, but also the proposed development. Entry from the public road to the appeal site would be characterised by a stark unrelieved expanse of hardstanding laid out for the benefit of the parking of six motor vehicles serving the proposed development. This would have a dominating and harmful effect on the occupiers of the proposed development in that such parking would be in close proximity to the front doors and windows of the ground floor flats, and the access stairwell.
21. Accordingly, the proposed development would cause harm to the living conditions of future occupiers with regards to floorspace, layout, availability of usable and secure private amenity space and privacy. It would be contrary to Policies CP2 (Protecting the Quality of the Rural and Built Environment), CP7 (Urban Form and Quality), DBE1 (Design of new buildings), DBE2 (Effect on neighbouring properties), DBE3 (Design in Urban areas) and DBE 9 (Loss of amenity) of the Epping District Council Local Plan 1998 and Alterations 2008, Policies DM2 (Epping Forest SAC and the Lee Valley SPA), DM9 (High quality design), DM 10 (Housing design and quality), and DB22 (Air quality) of the Local Plan Submission Version 2017, and paragraph 130 (Achieving well-designed places) of the Framework.

Living conditions of occupiers of neighbouring properties

22. The proposed development would be constructed in close proximity to the southern boundary of the plot. This would mean that the distance between the proposed development and the gardens of Nos 157 and 158 Princes Road would be around 5400mm and 5300mm in the case of flats 1 and 4, and around 460mm in the case of flat 2. This would provide a sense of confinement to the occupants in the use of such space between the southern flank wall of the proposed development and the northern boundary of Nos 157 and 158 Princes Road.
23. Further, not only would the proposed development introduce windows to the habitable rooms above ground floor level on its southern perspective, but also

- flat 7 would incorporate a large roof terrace, albeit that the third storey of the proposed development would be largely incorporated within the roofscape.
24. I find that notwithstanding the inclusion of a glazed screen to the terrace of flat 7, this would only provide a partial diminution in the harm that would be occasioned to adjoining neighbours by virtue of the ability on the part of the occupiers of flat 7 at all times to overlook the gardens to the south thereby considerably reducing the privacy of the occupiers.
25. I also find that the level of screening provided by deciduous trees would not outweigh the harm caused by the close proximity of the proposed development to its boundary. In any event such trees that are there do not fully enclose the site.
26. Thus, by virtue of its mass the three storey structure would be clearly apparent to, and would loom over, the gardens and houses in Princes Road to the south. All of this would result in a significant impact on the privacy and amenity space of the residents of those houses.
27. In so far as the two houses in Lily Mews lying to the west of the appeal site are concerned, the proposed development would present a sheer uninterrupted flank wall to these properties. Although the gardens to these houses wrap around each property to the north and the south, the eastern side walls of both properties would lie only a matter of a few feet from the boundary with proposed development. To compound the situation the principal living room window of the northern of these two houses is situated in its eastern elevation.
28. In the circumstances, I consider that the stark mass represented by the western flank wall of the proposed development would have a significant impact on the outlook of the northern property in Lily Mews. This would result in a considerable reduction in the enjoyment of the occupants of both houses in the use of their small gardens.
29. I conclude that the proposed development would cause harm to the living conditions of the occupants of neighbouring properties, having particular regard to outlook, light and privacy. The proposed development would be contrary to Policies DBE2 (Effect on neighbouring properties), and DBE 9 (Loss of amenity) of the Epping District Council Local Plan 1998 and Alterations 2008, Policies DM9 (High quality design), and DM 10 (Housing design and quality of the Local Plan Submission Version 2017, and the Framework.

Trees

30. The appellant relies upon an Arboricultural Impact Assessment Report dated November 2012. This Report appears to relate to the impact on certain trees lying close to the southern and western boundaries of the appeal site by reference to an earlier proposal. However, in that regard, it is out of date, particularly in relation to the potential impact of the trees by the implementation of the proposed development, together with any assessment of the current condition of the trees. Further, it does not refer to nor deal with the current proposal or its implications for trees on the boundary of the appeal site.
31. As a consequence, I find therefore that the appellant has failed to provide evidence to demonstrate that the proposed development would not have an adverse effect on trees within, or adjacent to, the appeal site.

32. Accordingly, the proposed development would be contrary to Policy LL10 of the adopted Local Plan and Alterations 2019, Policy DM3 of the Local Plan Submission Version 2017, and the Framework.

Other matters

33. The appeal site lies within the zone identified by Natural England as being likely to result in harm to the Epping Forest Special Area of Conservation as result of increased leisure use and air pollution. However, as I am dismissing for other reasons, I have not considered the implications of the scheme on the SAC further.

Conclusion

34. Therefore, for the reasons set out above the appeal should be dismissed.

Edward Cousins

INSPECTOR