



Appeal Decision

Site Visit made on 13 April 2021

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th May 2021

Appeal Ref: APP/J1535/W/20/3259388

38 Queens Road, Buckhurst Hill IG9 5BY

- 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 38QR Limited against the decision of Epping Forest District Council.
 - The application Ref EPF/0251/20, dated 3 February 2020, was refused by notice dated 11 May 2020.
 - The development proposed is described as "alterations and extension to create 5 no. one bedroom flats, with amended retail space to front".
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are the effect of the:
 - proposed annexe on the living conditions of adjoining occupiers on Princes Road and Queens Road with particular regard to privacy and outlook,
 - second floor extension on the character and appearance of the area and the living conditions of adjoining occupiers with particular regard outlook,
 - development on the living conditions of future occupiers with particular regard to the provision of refuse and cycle storage,
 - development on parking in the area, and
 - development on the Epping Forest Special Area of Conservation (SAC).

Reasons

Living Conditions – Proposed Annexe

3. The appeal site forms a three storey building with a retail unit on the ground floor and residential accommodation above. The site is within the Buckhurst Hill district centre and contains a variety of retail and commercial properties, some of which also contain various forms of residential accommodation above. The wider area is residential in character with dwellings on Princes Road backing onto the site.
4. The site benefits from a rear garden area which contains a single storey annexe building which straddles the rear boundary of the neighbouring properties on Queens Road and the rear gardens of properties on Princes Road. A further, smaller brick building is located adjacent to the annexe. The proposal seeks to erect extensions to the rear of the main building at ground, first and second

floor levels to provide a flat on the first and second floor that would be located largely within the front element of the main building and a further duplex flat to the rear. In addition, it is proposed to extend the existing annexe in the garden via a first floor addition and to convert it to create two flats.

5. The annexe extension is sited between the main appeal building and properties on Princes Road. To prevent overlooking to the rear of properties on Queens Road, the development proposes high level windows on its northern elevation that would serve a bedroom and a bathroom for each unit. A terrace for the first floor flat would also be enclosed via a glazed screen to prevent overlooking to properties that are located to the north and south.
6. Although the proposed high level windows would avoid direct overlooking to surrounding properties, that cannot be said for the proposed terrace area serving the first floor flat. No details of the obscure glazed screen have been provided, although it is suggested that it should have a minimum of level three obscurity. Nevertheless, even at this level the screen would not be opaque, allowing light to pass through it, resulting in shadowing and movement to be visible through the glazing. Moreover, it is evident that the terrace is to be used as an extension of the living area with folding doors allowing direct access to it. Sounds and movement within this particular area of the development would be appreciable from surrounding properties, giving a strong perception of being overlooked, which, to my mind, can be as harmful as actual overlooking.
7. Furthermore, the proposal would increase the height of the annexe by some 3.7m over the existing single storey building, reaching some 7m at its highest point. Although I acknowledge that consideration has been given to the design of the annexe extension, incorporating a mansard style roof, its scale within such a tightly knit suburban area would give rise to quite an unneighbourly form of development that would be clearly visible from and would dominate the garden areas of the properties that surround it on Princes Road and Queens Road. Notwithstanding the length of these gardens, the aerial photos of those on Princes Road clearly indicate that areas are used for relaxation and other activities which are very close to the annexe.
8. Thus, the development would result in harm to the living conditions of adjoining occupiers. It would be in conflict with Policies DBE2 and DBE9 of the Epping Forest District Council Local Plan and Alterations 1998 (LP), Policies DM9 and DM10 of the Epping Forest District Council Local Plan Submission Version 2017 (LPSV) and paragraph 127 of the National Planning Policy Framework (the Framework) which seek, amongst other things, that developments do not result in an excessive loss of amenity for neighbouring properties.

Living Conditions/Character and Appearance – Second Floor Extension

9. The development proposes extensions to the main building in the form of ground, first and second floor additions. The Council's decision notice refers solely to the effect of the second floor extension that is of concern and from my own observations, I have no reason to disagree with that assessment.
10. The second floor addition would extend out from the existing mansard roof by some 5m and across the whole width of the building. Although there are other extensions in the vicinity, such as that at 30a and 32 Queens Road, the

proposed second floor addition would introduce an extension that, given its not inconsiderable size in relation to the overall roof scape, would overly dominate the appeal property. This also gives the building an unbalanced appearance in comparison to the properties that adjoin it, resulting in harm to the character and appearance of the area, which would be clearly visible from surrounding properties.

11. The adjoining property at No. 40 benefits from a first floor terrace area which is sited adjacent to a first floor extension which belongs to the same property. Consequently, the proposed second floor extension would abut and be separated from the terrace area by the existing first floor extension belonging to No. 40a. Consequently, I am not persuaded that the development would have an overbearing effect, and thereby harming the living conditions, that the occupiers of No. 40a currently enjoy. Thus, it would not be in conflict with Policy DBE9 of the LP.
12. Thus, the proposed second floor extension would result in harm to the character and appearance of the area. It would be in conflict with Policies DBE2 and DBE3 of the Local Plan, Policies DM9 and DM10 of the LPSV and paragraph 127 of the Framework which seek, amongst other things, to ensure that developments respect their setting in terms of scale, proportion, and massing.

Living Conditions – Future Occupiers

13. The Council state that the development includes a row of 10 refuse bins that would require moving onto the road on collection days. In addition, larger refuse bins are unlikely to be able to be moved through the access and could result in issues of where the bins are to be placed on collection days, given the narrow footway outside the site. The Council's written statement also refers to the provision of cycle storage and argues that a lesser intensive development could provide additional space for the storage of cycles.
14. Although I accept that there could be some 10 refuse bins resulting from the proposed development, the appeal site is within a mixed use area with other properties in the vicinity that are also in residential use. Presenting refuse bins on Queens Road on collection days would be an accepted event and without substantive evidence to the contrary, appears to take place without particular amenity issues. Furthermore, it is evident that the development would provide adequate amenity space for the development, together with areas for refuse bins and cycle storage. Moreover, there is nothing before me to suggest that the proposed storage area for six cycles would not be sufficient to serve the development.
15. Thus, I do not consider that the development would result in an over intensive use of the site leading to a poor level of general amenity for future occupiers or the surrounding area. It would not be in conflict with Policies CP6, CP7, DBE2 and DBE9 of the LP and Policies SP1, DM9, Policies DM9 and DM10 of the LPSV and paragraph 127 of the Framework which seek, amongst other things, that developments do not have a detrimental effect upon existing and neighbouring properties in either amenity or functional terms.

Parking

16. The development does not propose any spaces for the parking of vehicles. Nevertheless, the Council argue that whilst the site is parking free, that does

not equate to the development being car free. Therefore, the level of accommodation provided could lead to pressure from residents of the proposed development parking on surrounding residential streets.

Although I acknowledge the Council's arguments regarding parking, given its location, there are limited opportunities within the immediate vicinity of the appeal site to park cars as it is the subject of controls. However, the site is within an area that has very good access to public transport, with bus stops and an underground station within walking distance and a wide range of shops and other facilities close to the appeal site. Thus, notwithstanding that the development is not 'car free' as described by the Council, the site is within a highly sustainable location, providing ample opportunities for future occupiers to travel by modes other than the private car, such as walking, cycling and public transport, which weigh in favour of the development. Thus, given the limited opportunities to park close to the site and the opportunities to access high quality public transport in the vicinity, I am not persuaded that the development would indeed lead to additional on-street parking pressure.

17. The Council also argue that the proposed cycle store it would not be secure as all occupiers would have communal access to it. However, each cycle could also be secured individually within the store, similar to public cycle racks. Consequently, I am also not persuaded that the cycle store is inadequate to meet the needs of future occupiers. Moreover, the Council has failed to adequately demonstrate how a lower density development would make demand for on-street parking easier to manage.
18. Thus, given the location of the appeal site and the convenience of access to public transport, as well as opportunities to walk and cycle to services and amenities, the proposal could be accessed via means other than the private car. For the reasons given above, the development would not lead to on-street parking pressure. It would not be in conflict with Policies CP1, CP6 and ST6 of the LP, Policies SP1 and T1 of the LPSV and paragraph 108 of the Framework.

Epping Forest SAC

19. The site falls within the zone identified by Natural England as being likely to result in harm to the Epping Forest SAC. The appellant has provided a unilateral undertaking to provide a financial contribution towards mitigating the effect of the development on the SAC, which principally derives from recreational pressure and air pollution.
20. Had the proposal been acceptable in planning terms, as the competent authority it would have been necessary for me to undertake an Appropriate Assessment (AA), including any suitable mitigation measures. However, the Conservation of Habitats and Species Regulations 2017 indicates the requirement for such an assessment is only necessary where the competent authority is minded to approve planning permission. As the appeal is being dismissed on other substantive matters, it is not necessary for me to consider this matter further, including the need to undertake an AA or the need for the appellant to provide mitigation as it does not propose car parking as part of the development.

Other Matters

21. As outlined within the Council's submissions the preparation of the emerging Local Plan has reached an advanced stage. Significant weight can therefore be afforded to the LPSV policies within the determination of this appeal in accordance with paragraph 48 of the Framework. I note the appellant's comments that the LPSV is the subject of future modifications following issues which are stated to have been raised within its Examination in Public. Nevertheless, even if I had applied reduced weight to the emerging LPSV policies, the proposal would have still been dismissed as a result of the conflict found with the adopted LP as outlined above.
22. The appellant refers to the lawful use of the annexe as a business premises, which could be resumed at any time. While that may be the case, the appellant's intention is for the residential use of the annexe and there is no evidence before me that a business use would resume should this appeal fail, or that such a use would be appreciably more harmful to the adjoining residents than the proposed residential use.
23. I acknowledge that the appeal site is within a highly sustainable location and seeks to make effective use of previously developed land. The development as a windfall site would also increase housing in the District, helping to boost the Council's housing provision and to meet its requirements. However, I do not consider that either individually or cumulatively the benefits of the development would outweigh the harm identified above.
24. The appellant also argues that the development would also tidy up the rear of the property. However, I do not find this a compelling reason to find in favour of a development that would be otherwise harmful. I also note that representations were made by local residents, some of whom raise additional concerns. However, given my findings on the main issues, it is not necessary to consider these matters in detail.

Conclusion

25. Thus, for the reasons given above, I conclude that there are no material considerations of such weight as to indicate that a decision be taken other than in accordance with the development plan. As I have found the proposal would be in conflict with the development plan, the appeal is dismissed.

Graham Wyatt

INSPECTOR