



Appeal Decision

Site visit made on 28 November 2022

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2022

Appeal Ref: APP/J1535/W/22/3294758

Foresters Arms, 15 Baldwins Hill, Loughton IG10 1SF

- 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 Lucy Malchar against the decision of Epping Forest District Council.
 - The application Ref EPF/2148/21, dated 12 July 2021, was refused by notice dated 2 December 2021.
 - The development is a terrace with wall and piers to front of premises.
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Decision

1. The appeal is allowed and planning permission is granted for a terrace with wall and piers to front of premises at Foresters Arms, 15 Baldwins Hill, Loughton IG10 1SF in accordance with the terms of the application, Ref EPF/2148/21, dated 12 July 2021, subject to the following condition:
 - 1) The development hereby permitted is that shown on the following approved plans:
 - a. Existing Site and Location Plans (drawing 01, July 2021)
 - b. Front Terrace (drawing 01, July 2021)

Preliminary Matters

2. The development that is the subject of this appeal has been constructed. There was some disagreement between the appellant and the Council / Local Highway Authority (LHA) as to whether the appeal development is located on the public highway.
3. I am satisfied from the submitted evidence that the appeal development has been constructed within the site edged red location plan, and that the owner of this land was notified of the planning application and appeal. However, the LHA has provided evidence in its Statement that the public highway extends over the site edged red as far as the front elevation of the appeal building, which has not been directly disputed by the appellant.
4. I have considered this appeal on the basis that most of the appeal development has been constructed on highway land. I have considered the appeal with regard to Planning legislation, policy and guidance; I have not considered the appeal development with regard to compliance or otherwise with Highways legislation, which would be a separate matter.
5. The appeal site is located within the Baldwins Hill Conservation Area (BHCA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act

1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

Main Issues

6. The main issues are the effect of the appeal development on:

- The character and appearance of the area;
- Highway safety; and,
- Parking provision.

Reasons

Character and appearance

7. The appeal site is located at the junction of Baldwins Hill and Stony Path. Baldwins Hill is a sloping road on the eastern edge of Epping Forest. The appeal site has a somewhat elevated position overlooking the forest, which in this vicinity includes an area of grassland with occasional mature trees, sloping downwards to the west, where dense mature woodland can be found.
8. The area is predominantly residential and contains generally traditional housing types of various sizes and designs. Dwellings are to be found on both sides of Baldwins Hill by and to the north of the appeal site and on the eastern side of the road, to the south of Stony Path. Stony Path itself contains a mix of traditional dwellings on both sides in this vicinity, with a short parade of 2-storey dwellings next to the appeal site itself.
9. The dwellings in this area contain a range of boundary treatments to the highway, including walls, fences, hedges, shrubs and some where there is no formal demarcation.
10. The appeal building is a 2-storey public house facing onto Baldwins Hill, with a flat roofed extension to the side towards Stony Path. The building is rendered and there is a narrow, terracotta-coloured, tiled overhang at ground floor level, around the front and side of the building.
11. The building occupies a visually prominent position in the BHCA and its design, scale and massing is not out of keeping with the area. There is an existing outdoor seating area by Stony Path that is positioned some 0.75 metres above the street level. This existing terrace is formed by a rendered wall, that matches the render on the public house, with some painted metal railings.
12. The appeal terrace is connected to this existing terrace and extends along Baldwins Hill. Whilst similarly elevated above the street, the terrain of the area means that its height is significantly lower to the north, from where pedestrians can access both it and the public house. The appeal terrace is of unrendered brick construction, with painted timber trellises positioned between brick columns.
13. The appeal terrace is used to extend the outdoor seating area for the public house and whilst its appearance is distinct from the rendered public house and the existing terrace, its design, scale and position is not out of keeping with the host property or the wider area. The colour of the timber trellis is a similar shade of green to other timber details at the property, whilst the exposed brickwork is not dissimilar in colour to the tiled overhang on the building.

14. There is considerable diversity to the front boundary treatments of properties in this vicinity, and the brick and timber trellis design of the appeal terrace strengthens the corner at Baldwins Hill and Stony Path and makes a positive contribution to this mixed streetscene. It enhances the appearance of the BHCA, in comparison with the ad hoc surface car parking spaces it replaced, and I note the Council's Conservation Officer did not object to the development.
15. For these reasons the appeal development enhances the character and appearance of the area and does not conflict with policy DBE9 of the Epping Forest Local Plan 1998 (EFLP), which concerns visual impact, amongst other things; with draft policy DM9 (high quality design) of the submission draft Epping Forest Local Plan 2017 (SDEFLP) or with the National Planning Policy Framework 2021 (the Framework), in this regard. Policy DBE2 of the EFLP concerns new buildings and so is not relevant to the appeal.

Highway safety

16. The Council has relied upon the LHA's evidence for matters of highway safety and I accept that much of the appeal terrace is located in the public highway.
17. From the evidence and from my observations on site, Baldwins Hill is an unclassified road with a maximum speed limit of 30mph that benefits from street lighting. It is a relatively narrow two-way street, with a considerable amount of on-street car parking. Anecdotally, residents and their visitors, together with visitors to the public house and Epping Forest itself are responsible for on-street parking here.
18. The LHA is concerned that the design, scale and position of the appeal terrace reduces the visibility splay for vehicles exiting Stony Path in comparison with the previous use as car parking spaces, which it considers to be transient obstructions.
19. The LHA is further concerned that the absence of parking restrictions means that vehicles could park alongside the appeal terrace, with the potential to block or hinder traffic movement along Baldwins Hill.
20. The LHA is also concerned that pedestrian movement along the eastern side of Baldwins Hill, by the appeal property, is now more difficult. Pedestrians are forced to the edge of the carriageway and are unable to step away due to the position and solid structure of the appeal terrace.
21. Neither the Council nor the LHA has stated what an acceptable visibility splay for vehicles exiting Stony Path onto Baldwins Hill would be, or whether the previous arrangements accorded with this. Whilst the construction of the terrace is a permanent obstruction within the visibility splay, the presence of up to three parked vehicles here would provide a similar level of obstruction.
22. Furthermore, given the amount of on-street parking in this area, it is unlikely that these parking spaces would have been empty for long periods of time, as is suggested by the LHA. I also note from the evidence that the somewhat ad hoc arrangements historically caused some parked vehicles to encroach onto the carriageway, marked by a dashed white line on the eastern side of Baldwins Hill. Such encroachment would have further reduced visibility for vehicles exiting Stony Path and is in contrast to the appeal development, which is clearly set back from the carriageway.

23. Stony Path, close to the junction with Baldwins Hill, is protected by double yellow lines to prevent vehicles from parking on the side of the road. However, these double yellow lines do not extend along Baldwins Hill to afford it the same level of protection. Indeed, most of Baldwins Hill has unrestricted parking¹, meaning that vehicles could park by the side of the road along much of its length, not just by the appeal terrace.
24. When I visited the area, I noted that cars were parked on both sides of Baldwins Hill, to the north of the appeal site, and on the western side to the south of Stony Path, which significantly restricts the width of the carriageway. The vast majority of vehicles were also parked partly over the footpaths, restricting pedestrian movement there. Neither the Council, nor the LHA has raised concerns about this existing situation or provided an explanation for why formal parking restrictions would be impractical or inappropriate here, either generally or with specific regard to the vicinity of the appeal site.
25. Whilst there is no formal footpath on the eastern side of Baldwins Hill next to the appeal property, there is a strip of land between the terrace wall and the dashed line marking the edge of the carriageway. The width of this strip varies somewhat but is around 0.7 metres, and upon which a pedestrian could walk without encroaching onto the carriageway.
26. Such a pedestrian route is not ideal. However, the width is not dissimilar to the footpath on Baldwins Hill south of Stony Path, which is restricted by regularly placed bollards, whilst Stony Path has no footways for much of its western extent by the appeal site. Furthermore, this is not significantly different to the previous arrangement, where the evidence shows that pedestrians would have had to navigate around the informally parked vehicles. This would almost certainly have involved stepping onto the carriageway in order to round overhanging parked vehicles, or vehicles parked close to the edge of the carriageway.
27. Whilst there were several large plant pots partly blocking this strip of land when I visited the area, I see no reason why such temporary obstructions could not be removed by the appropriate authority to improve pedestrian access.
28. Neither the Council nor the LHA has provided any evidence of traffic accidents occurring in the vicinity of the appeal site before or after the construction of the appeal terrace.
29. The LHA state that the definition of a highway is to allow the public to pass and repass over it, and that the appeal terrace has obstructed the ability of the public to do so. However, the presence of parked vehicles would similarly have restricted the ability of people to use the highway in this way.
30. Furthermore, I note that the terrace was constructed prior to the application for planning permission being made in July 2021, almost 18 months ago. The LHA considers the appeal development to be an illegal obstruction on the highway. However, there is no evidence that the LHA has taken any action to address this situation beyond commenting upon the application and subsequent appeal.
31. There is no compelling evidence that the current arrangements with the appeal terrace are significantly worse than the previous informal car parking arrangements.

¹ North of Stony Path on-street parking is limited to permit holders only

32. For these reasons the appeal development does not cause unacceptable risks to highway safety and does not conflict with policy ST4 (road safety) of the EFLP Alterations 2006, draft policy T1 (sustainable transport choices) of the SDEFLP, and with the Framework, in this regard.

Parking provision

33. The application form makes no reference to the loss of any car parking spaces and few substantive details regarding the previous parking arrangements have been provided. However, it is not disputed by any of the parties that there is a loss of parking spaces. Furthermore, whilst these spaces were not on the carriageway, they were on the public highway.
34. As previously stated, there is a significant amount of on-street parking in this area, said to be associated with residents, and visitors to the appeal property and Epping Forest. The loss of several car parking spaces by the public house will have had an adverse effect on parking provision in the area.
35. However, I note that the appellant used several of these spaces and is now using the off-street former bin store area for parking, with the bin store to be relocated to the back of the property, which would reduce the impact of this loss somewhat.
36. Whilst the limited substantive evidence regarding the previous parking arrangements makes assessing the impacts of the loss of parking spaces difficult to quantify, there is likely to have been some increase in parking stress in the area as a result of the appeal development.
37. However, I note that the LHA is primarily concerned with vehicles parking on the carriageway (next to the appeal terrace) and so blocking or hindering traffic movement as a result of the absence of parking restrictions. Such a situation applies to much of Baldwins Hill and it is unclear what makes the appeal site distinctly harmful compared to the land to the south of Stony Path. On balance, I do not consider the limited scale of the reduction in parking spaces causes unacceptable harm to parking provision in the area.
38. For these reasons the appeal development does not significantly affect parking provision in the area. It does not conflict with policy DBE9 of the EFLP, which concerns disturbance, amongst other things; with draft policy DM9 (high quality design) of the SDEFLP or with the Framework, in this regard. Policy DBE2 of the EFLP concerns new buildings and so is not relevant to the appeal.

Other Matters

39. No compelling evidence has been provided to show that the appeal development has increased noise disturbance in the area. This is not a matter of concern to the Council and I am satisfied any impact would not be significant.

Conditions and Conclusion

40. For reasons of certainty, a condition specifying the approved plans would be necessary.
41. For the reasons given above, and taking into account all matters raised, I conclude that the appeal is allowed.

Andrew Parkin
INSPECTOR