



Appeal Decision

Site visit made on 4 July 2023

by J Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th July 2023

Appeal Ref: APP/W5780/W/23/3315671

Cherry Tree Court, 39 Cherry Tree Rise, Redbridge, Buckhurst Hill IG9 6ET

- 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 Kirit Shah against the decision of the London Borough of Redbridge.
 - The application Ref 3142/22, dated 22 September 2022, was refused by notice dated 24 November 2022.
 - The development proposed is new rear two storey building to create 2 No. one bedroom flat units.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The London Borough of Redbridge has delivered 68% of its annual target for the three years up to 2020/21, which has resulted in the requirement to produce an action plan. As a consequence of this, a 'Presumption in favour of sustainable development' for housing schemes has been applied. The baseline annual housing delivery target for Redbridge increased by 23% to 1409 homes when the new London Plan was published in March 2021. This means there is still a continued need for housing in both the short and medium term.
3. The 'Presumption in favour of sustainable development' means that policies relating to the supply of housing in the Redbridge Local Plan 2015-2030 (RLP) are now considered to be 'out of date'. Therefore, footnote 7 to paragraph 11(d) of the National Planning Policy Framework (the Framework), which provides that policies are out of date when the LPA cannot demonstrate a five year supply of deliverable housing sites, is engaged. This means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
4. Reference has been made, in reason for refusal 4 of the Council's decision letter, to policies LP33 and LP38 of the RLP. These policies relate to matters of Heritage and Protecting Trees and Enhancing Landscape respectfully and are not directly relevant to the Epping Forest Special Area of Conservation (EFSAC). That said, as a competent authority, it is still incumbent upon me to consider any likely impacts the proposal would have on the EPSAC.

Main Issues

5. The main issues are

- the effect of the proposal on the character and appearance of the area;
- whether the proposal would provide acceptable living conditions for future occupiers, with particular regard to layout, privacy, outlook and the provision of private amenity space; and
- the effect of the proposal on the Epping Forest Special Area of Conservation, with particular regard to any mitigation measures required.

Reasons

Character and appearance

6. The appeal site is located at the end of Station Parade, and fronts onto Cherry Tree Rise. Station Parade comprises a group of buildings that incorporate a commercial premises at ground floor level, and residential properties at both ground and first floor levels. To the rear of Station Parade there are a number of single storey flat roofed outbuildings, accessed from a service road leading off Station Approach. To the north of the service road are two storey commercial units, beyond which is the Roding Valley railway.
7. Notwithstanding the presence of a small number of commercial enterprises within Station Parade, the area is predominantly residential in character. The properties in the immediate locality comprise of a mix of designs, and includes detached, semi-detached and terraced houses and bungalows. These properties have well-defined building lines, set back from the pavement behind modest front gardens, have limited variations in roof height and a restricted palette of materials. This gives the area a well-defined and mature appearance.
8. The proposal would introduce a two storey building into the space between the host property at 39 Cherry Tree Rise and the two storey commercial property to the rear, with limited space being left between the respective buildings. The combination of the buildings would result in a cramped street scene, in a prominent location on the approach to the station. As a consequence, it would be harmful to the more spacious character found within the locality, and as a result would be detrimental to the overall appearance of the area.
9. Accordingly, on this main issue, I conclude that due to its scale and design, the proposal would be harmful to the character and appearance of the area. It would therefore conflict with Policy LP26 of the RLP, Policy D3 of the London Plan (LP) and paragraph 130 of the Framework. These policies jointly seek to ensure that development is of a high-quality design that respects local character.

Living conditions

10. The Council has assessed the proposal with regards to compliance with the internal space standards as set out in the LP, which requires compliance with the National Described Space Standards. In their Officer's report they confirm that the room sizes, dual aspect and ceiling height would mean that the proposal meets these standards. Based on all that I have seen and read, I see no reason to disagree with this view.

11. Pedestrian access to the proposed flats would be from the communal yard located to the rear of No 39. The appellant asserts that future occupiers would have access to the front courtyard for amenity purposes. However, no details are provided to indicate whether any of the space available would be exclusively available to the occupiers of the proposed flats. Furthermore, I have no substantive evidence before me to indicate the number of flat occupiers that currently have use of the yard, or the level of usage of the yard. As a result, there is no certainty that sufficient external space would be available to future and existing occupiers. Even if sufficient external space were available, in the absence of screening, the habitable rooms to the ground floor flat would be exposed to overlooking from neighbouring residents as they use the communal space.
12. I have taken into account the appellant's reference to the availability of public open spaces in the locality. Whilst I acknowledge that these facilities are within a short distance of the appeal site, and provide recreational opportunities, I do not regard them as performing the same function as private amenity space. In particular they would not provide space where the occupants could relax in privacy or dry clothing. As a result, they do not provide a substitute to the provision of amenity space directly attached to the proposed development.
13. I also note that the bedrooms of the proposed flats would directly abut the service road and be subject to overlooking from people who pass along it. Furthermore, there would be views, at close range, into the upper floors from the adjacent flats at No 39 and the commercial premises that are located immediately to the north of the appeal site. As a result, the occupants of the proposed flats would be subject to high levels of overlooking, and a corresponding low level of privacy. Consequently, the rooms within the proposed development would not be pleasant spaces in which future occupiers could relax or spend time.
14. The short distance between the windows the lounge and bedrooms to the proposed flats and existing buildings would also severely restrict the outlook from the proposed flats. This would contribute towards a poor living environment for future occupiers.
15. Accordingly, on this main issue, I conclude that the proposal would not provide acceptable living conditions for future occupiers, with particular regard to layout, privacy, outlook and the provision of private amenity space. Consequently, the scheme conflicts with Policies LP26 and LP29 of the RLP, and Policy D6 of the LP, which jointly seek to provide a high quality living environment for future occupants. It would also be contrary to paragraph 127 f) of the Framework, which seeks a high standard of amenity for existing and future users.

Habitats

16. Policy LP39 of the LP requires a contribution to mitigate the impacts of development on the EFSAC. I have no evidence before me to indicate that the appellant would be willing to make a contribution towards the mitigation measures, and no legal agreement has been presented to me for consideration in this regard. However, given that the proposal would fail on other substantive matters, as identified above, the lack of a legal agreement for such a contribution is not a decisive factor in this appeal.

17. Given the lack of a legal agreement, on this main issue, I conclude that the proposal would fail to address a recognised need for new developments to contribute towards mitigation measures required in association with the EFSAC. As a result, it would be contrary to Policy LP39 of the RLP as set out above.

Other Matters

18. I acknowledge that the appeal site is in a sustainable location, adjacent to a railway station, with frequent services to the city of London. I also accept that it would be in close proximity to a range of local services and facilities. However, these are neutral matters and do not outweigh the harm that I have identified above
19. I have taken into account other developments in the locality, as referred to me by the appellant in their appeal statement, including those that have taken place at 31, 33, 35, 37 and 39 Cherry Tree Rise. On my site visit I saw that the relevant buildings were predominantly single storey in height and related to outbuildings associated with existing residential and commercial properties. As a result, they were not directly comparable to the appeal proposal, which relates to the erection of a two storey building providing independent living accommodation. In any event I am not aware of the circumstances under which they were allowed. Consequently, they do not provide a justification for a development that is harmful to the character and appearance of the area and provides an unacceptable standard of accommodation.

Planning Balance and Conclusion

20. Notwithstanding the absence of a five year supply of deliverable housing I find that the policies of the RLP and the LP which are most important to the determination of this appeal, are not out of date, and are consistent with the Framework. For the reasons set out above, I find that harm would be caused to the character and appearance of the area and future occupiers would not be provided with acceptable living conditions. The proposal would also fail to provide appropriate measures to mitigate against the impact of development on the EFSAC. As a result, the appeal proposal would be in conflict with the development plan, and the Framework.
21. The adverse impacts of granting permission for the proposal would significantly and demonstrably outweigh the benefits of the scheme, when assessed against the policies in the Framework taken as a whole. There are no material considerations which lead me to determine the appeal otherwise than in accordance with the development plan. Accordingly, the proposal would not comprise sustainable development.
22. For the reasons given above, I therefore conclude that the appeal should be dismissed.

J Gunn

INSPECTOR