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# Appeal Decision

Site visit made on 24 August 2023

**by C Hall BSc MPhil MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 14<sup>th</sup> September 2023**

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**Appeal Ref: APP/L3625/W/23/3315049**

**16a The Parade, Brighton Road, Tadworth, Surrey KT20 6AT**

- 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 Andrei Bescpalov against the decision of Reigate and Banstead Borough Council.
  - The application Ref 22/00404/RET, dated 21 February 2022, was refused by notice dated 29 July 2022.
  - The proposed development is to supply and install 2 No modular flue pipes on the rear flat roof.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The appellant has submitted revised plans within the grounds of appeal to show an amended development. It is suggested that these would address the comments of the Council officer made at a meeting after the decision was issued in relation to the original application.
3. The *Procedural Guide – Planning Appeals – England* makes clear that if an applicant thinks that amending their application proposals will overcome the local authority's reasons for refusal they should normally make a fresh planning application. Furthermore, the appeal process should not be used to evolve a scheme; it is important that what is considered is essentially the same as that on which the local planning authority took its decision and on which the views of interested people were sought.
4. I have had regard to the 'Wheatcroft' principles, including whether amendments would materially alter the nature of the application and whether anyone who should have been consulted on the changed development would be deprived of that opportunity. I have come to the conclusion that they would. This is because, as stated in the officer's pre-application response, views of the amendments would need to be taken as to the level of visual impact and whether there will be a problem for residents when there is an easterly wind, or a foggy/misty winters evening. I have therefore proceeded to base my decision on the proposals before the Council when it made its decision.

## Main Issue

5. The main issue is the effect of the development upon the living conditions of neighbouring residents having regard to air quality.

## **Reasons**

6. I understand from the evidence that the appeal site is in an area where there are a number of other similar flues, and this is supported by my observations on site. However, the appeal proposal does not include any information in relation to air pollution mitigation. In the absence of detailed evidence, I cannot be certain that particulates would be dispersed in a satisfactory manner such as to prevent adverse impacts upon local living conditions and air quality. I am not satisfied that this matter could be dealt with through a planning condition, if the appeal were to be allowed.
7. I appreciate that the flue pipe has much smaller diameter than existing commercial flue pipes at rear of The Parade, and would be manufactured in black or stainless steel finish. However, these matters do not outweigh the detriment I have identified above.
8. On this basis I am drawn to conclude that the scheme would result in harm to the living conditions of neighbouring residents having regard to air quality. It would be inconsistent with the provisions of Policies DES1 and DES9 of the Reigate and Banstead Development Management Plan 2019, which seek to provide appropriate environments that prevent adverse effects from pollution.

## **Conclusion**

9. Having regard to all matters raised, the appeal is dismissed.

*C Hall*

INSPECTOR