



Appeal Decision

Site visit made on 2 August 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2024

Appeal Ref: APP/J1535/W/23/3328004

179 Queens Road, Buckhurst Hill, Essex IG9 5AZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr R Hopkins of Foxstone Estates Limited against the decision of Epping Forest District Council.
 - The application Ref is EPF/1369/23.
 - The application sought planning permission for Proposed office extension ancillary to the existing ground floor commercial business - (Revised application to EPF/0842/20)- As Amended without complying with conditions attached to planning permission Ref EPF/2442/20, dated 21 April 2021.
 - The condition in dispute is No 2 which states that: *The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans: P102G; P104H; P101G; S001; S003; S004; S005: Location Plan.*
 - The reason given for the condition is: *For the avoidance of doubt and to ensure the proposal is built in accordance with the approved plans.*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published.
3. In any event, the policies that are material to this decision are not subject to any fundamental changes, and I am satisfied that this has not prejudiced any party. Consequently, in reaching my decision I have therefore had regard to the Framework published in December 2023, and any reference to paragraph numbers are to this version.

Background and Main Issues

4. Planning permission was granted at the site in April 2021 for a ground floor office extension within an area to the rear of 179 Queens Road, fronting Westbury Lane. The construction of this extension has commenced.

5. The appellant is seeking to vary a condition in order to substitute amended drawings. This would create an additional floor of accommodation within a gable roof above the footprint of the approved ground floor extension.
6. In 2022 planning permission Ref: EPF/1167/22 was granted for a two storey side/rear infill extension to the main building. This also involved an internal reconfiguration of the first floor residential accommodation within the building. At my site visit I observed that this extension had been constructed.
7. Consequently, the main issues are the effect that varying the condition would have on:
 - the living conditions of the occupiers of neighbouring properties, with particular regard to the outlook of the occupiers of 177 Queens Road and occupiers of the first floor studio within 179 Queens Road; and
 - the character and appearance of the host property and the surrounding area.

Reasons

Living conditions

8. The neighbouring property at 177 Queens Road (No. 177) has a two-storey rear outrigger and a single storey rear extension which adjoins the boundary with the appeal site. The property also has a small courtyard garden and a single storey garage to the rear.
9. The height of the proposal has been reduced from the previous appeal scheme¹. It is also set slightly away from the shared boundary with No. 177. Nevertheless, the proposal's side elevation would still be a tall, blank addition which would be positioned in close proximity to the shared boundary with the neighbouring property. Its depth and height have the potential to impact the outlook for neighbouring occupiers from the garden.
10. Views from the area of No. 177's garden closest to the boundary would look directly onto the proposal's side elevation with minimal separation distance. Consequently, the proposal would have a looming presence over the neighbouring garden. The combined depth, height and proximity of the proposal to the neighbouring garden means that it would be a dominant and oppressive feature for neighbouring occupiers.
11. The proposal would be located approximately one metre from the first floor rear window of a studio unit within the extension constructed following the 2022 planning permission². Although the proposal's roof is pitched, it would project across a significant proportion of the studio's window with minimal separation.
12. The studio has large windows on a separate aspect which overlook the neighbouring car park and which would be unaffected by the proposal. The appellant indicates that the glazed areas would exceed 20% of the floor areas of the room. However, the submitted drawings show that the window in question serves a sleeping area from which, it seems to me, occupiers of the studio are likely to have an expectation of a reasonable level of outlook. Given

¹ APP/J1535/W/20/3254986

² EPF/1167/22

the proximity of the proposal, it would be an oppressive feature for the neighbouring occupiers of the studio unit and the restricted outlook would create gloomy conditions.

13. Consequently, the variation of condition 2 would conflict with Policy DM9 of the Epping Forest District Local Plan 2011-2033 Part One (2023) (LP). The policy requires, amongst other things, that proposals do not result in an over-bearing or overly enclosed form of development which materially impacts on either the outlook of occupiers of neighbouring properties or the occupiers of the proposed development.
14. It would also conflict with paragraph 135 of the Framework which requires that planning decisions create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Character and appearance

15. The appeal site includes a two storey end-of-terrace building fronting Queens Road, which consists of commercial use at ground floor and residential at first floor. The adjoining residential properties at 175 and 177 face Queens Road and have rear gardens, including ancillary single storey buildings, adjoining Westbury Lane. The plot depths increase further to the east, and some commercial properties have low level buildings with pitched roofs facing Westbury Lane. As the gap between Queens Road and Westbury Lane increases further, the southern side of Westbury Lane sees residential properties that are generally of 2 storeys.
16. In determining the previous appeal at the site, the Inspector found the proposal would appear cramped and dominant. That proposal was a full two storeys in height. In contrast, the current appeal proposal would have a second storey of accommodation within its gable roofspace, enabling a reduction in the height of the roof's ridge and eaves.
17. Since the previous appeal was dismissed, the extension approved under Ref EPF/1167/22 has been constructed. This infills a first floor area to the rear of the appeal site and, as a result, the proposal's first floor roof form would have minimal separation from the existing building. Where there are one and a half or two storey buildings fronting Westbury Lane, they generally have open space between their rear elevations and the rear of buildings on Queens Road. In contrast, due to the limited separation to the existing building, the proposal would appear as a long expanse stretching from Queens Road to Westbury Lane, with minimal visual relief. This would be an uncharacteristic development, and as a result the proposal would stand out in the vicinity as a cramped and incongruous addition. The proposal would be particularly prominent due to the unrestricted views across the car park from the west of the site.
18. During my site visit I observed the recent two storey development at 98 Westbury Lane. However, from my observations, that development is on a part of Westbury Lane which has deeper plot depths between Queens Road and Westbury Lane. The depth of the development has been mediated to ensure that a sense of space and openness towards the buildings to its rear on Queens Road is maintained. As a result it does not appear as cramped. The appellant refers to other two storey and two and a half storey buildings on Westbury

Lane. These buildings also have greater separation to the buildings to the rear on Queens Road. As such, they have a different effect on the character and appearance of the area to that proposed and they do not justify the harm I have identified.

19. The low boundary wall to the front of the proposal has also been omitted since the previous appeal, and the proposal's footprint would have a greater set back from Westbury Lane. This would create more space when viewed from Westbury Lane, but would not be sufficient to prevent the proposal from appearing cramped, particularly in views of its side elevations.
20. The proposal's side elevation would project along the public footpath between Queens Road and Westbury Lane. The proposal would have lower eaves and greater set back from the boundary adjoining the footpath than the previously dismissed scheme. The lower height and greater set back would prevent the proposal from excessively enclosing the footpath and it would remain an attractive route for pedestrians.
21. However, for the reasons outlined above, the proposal would have a harmful effect impact on the character and appearance of the area and the host property. Therefore, the variation of the condition would conflict with Policy DM9 of the LP which requires new development to be of a high quality that responds to the local character of the area.

Other Matters

22. The proposal would provide space for the existing fitness studio business which operates from the ground floor of the appeal site. The business is well established and serves the local community, but requires additional floorspace. The additional floor area would allow the fitness studio business to expand and would therefore have economic benefits to the local area and wider community. Be that as it may, these matters do not outweigh the harm to the character and appearance of the area and the living conditions of neighbouring occupiers which I have identified.

Conclusion

23. I have considered all matters that have been raised, but none demonstrate that condition 2 is not reasonable and necessary. The proposed amended drawings would result in a development which would have an unacceptable effect on the character and appearance of the host building and area and the living conditions of the neighbouring occupiers.
24. The proposal would conflict with the development plan and the Framework as a whole. There are no material considerations of such weight that indicate the decision should be made other than in accordance with the development plan. Condition 2 complies with the tests for planning conditions that are set out in paragraph 56 of the Framework. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR