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## Appeal Decision

Site visit made on 4 March 2025

by **N Kempton BAHons PGDip MA IHBC MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 April 2025

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**Appeal Ref: APP/W5780/W/24/3355478**

**115-123 and 127-131 High Street Barkingside, Redbridge, Ilford IG6 2AJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Barkingside Real Estate Ltd against the decision of the Council of the London Borough of Redbridge.
  - The application Ref is 1800/24
  - The development proposed is two- storey side extension and first floor rear extension to create new entrance and stairwell. Two storey upwards extension including new stairwell at 2<sup>nd</sup> floor to create 9x new residential units (2x one- bedroom and 7x two- bedroom flats) with associated cycle and refuse storage.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Barkingside Real Estate Ltd against the Council of the London Borough of Redbridge. This application is the subject of a separate decision.

### Preliminary Matters

3. The National Planning Policy Framework (the Framework) was updated in December 2024, during the consideration of this appeal. Insofar as is directly relevant to the appeal, the changes are not fundamental. Neither main party were asked for their views and I am satisfied no parties have been prejudiced as a result.
4. In the interests of clarity, the description of development is taken from the decision notice rather than the application form, as the former description is clearer.
5. The appellants request that the appeal is made against revised plans. The proposed amendments include the provision of balconies to flats 1 and 2, both of which are rear facing units on the second floor, and two additional north facing windows to serve flat 3 on the second floor and flat 7 on the third floor.
6. The Procedural Guide: Planning Appeals- England (Updated September 2024) advises that if an appeal is made the appeal process should not be used to evolve a scheme. Furthermore, I have had regard to the substantive and procedural tests established in *Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)*. These amendments, which have the potential to overlook third party property, constitute a 'substantial difference' to the

application. To accept the revised plans would also potentially prejudice the interests of interested parties, thereby causing procedural unfairness.

7. Therefore, I consider that the revised plans submitted with the appeal fail both the substantial test and the procedural test. As such, I have determined the appeal on the basis of the scheme and plans that were before the Council when it made its decision.

### **Main Issues**

8. The main issues relevant to this appeal are the effect of the proposed development on the:
  - character and appearance of the area;
  - living conditions of future occupiers with particular regard to: the provision of private and communal amenity space and outlook;
  - Epping Forest Special Area of Conservation (SAC).

### **Reasons**

9. The appeal property is a two-storey commercial building and a primary shopping frontage located on the High Street within Barkingside District Centre. It is sited at the junction between High Street and Hobart Road. There is access along Connect Road to the rear. The appeal building comprises retail space at ground floor with storage and ancillary use at first floor under a flat roof. The building is principally faced in red brick, with a render band capping the lower element but the High Street frontage is clad in precast concrete panelling.
10. Buildings along the High Street are generally three-storeys in height with retail use at ground floor and ancillary or residential use above with pitched roofs. The predominant facing material is red multi-coloured brick with orange brick, stone or rendered features. The upper floors generally exhibit repeating or symmetrical elements and fenestration. Shopfronts vary in detail, but deep fascia or banner signage is typical. In the immediate vicinity of the appeal building, the parade is more varied in appearance, building heights vary from three to five storeys with a mixture of pitched and flat roofs. Beyond the High Street, the area is characterised by predominantly inter-war and immediate post-war residential development in the form of two-storey houses.

### *Character and appearance*

11. Policy LP26 of the Redbridge Local Plan 2015-2030 (2018) (LP) promotes high quality design. This policy requires development to, amongst other things, respect and reinforce the local character of the area, make a positive architectural and urban design contribution to its context and location, be well integrated, respect the surrounding area in terms of layout, massing, high quality details, materials and design.
12. The external treatment of the extension fails to demonstrate regard to, or respect for, features that contribute to the character of the area. Whilst the windows are of a vertical proportion, the façade fails to reflect the repeating or symmetrical elements that characterise the upper floors of buildings flanking the High Street in terms of the arrangement of the fenestration. The balconies are not a

characteristic feature in the vicinity, they are poorly conceived to the detriment of the composition of the front elevation. The palette and ratio of materials fail to reflect that which predominate in the area. The application of external materials serve to sever the upper floors from the ground floor below, and the massing of the upper floors would appear unduly dominant, creating disharmony with the host building. As such, the proposal would appear incongruous in its context to the detriment of the character and appearance of the area.

13. The principal entrance to the flats would be via a narrow stairwell. Whilst I note that the appellant confirms that the stairwell would meet Building Regulations, it is likely to be unduly restrictive in terms of functionality and practicality and so would fail to achieve high quality design as required by Policy LP26.
14. For these reasons, the proposal would be contrary to Policy L26 of the LP. It would also be contrary to Policy D3 of the London Plan 2021, which requires development proposals to, amongst other things, enhance local context by delivering buildings that positively respond to local distinctiveness through their layout, scale and appearance, and be of high quality with architecture that pays attention to detail and uses attractive, robust materials.

#### *Living Conditions of future occupants*

15. Policy LP29 of the LP relates to amenity and internal space standards. This policy requires new development to provide external private and/ or communal amenity space to meet the needs of occupants. This includes a minimum requirement of 5 square metres of private amenity space for flats for 1-2 people with an additional 1 square metre for each additional occupant. It further seeks a minimum amount of communal amenity space of 5 square metres per unit for flatted development.
16. Flats 1 and 2 would not have access to any private amenity space. These flats are 2-bed flats and are therefore more likely to be occupied by families with children. In those circumstances, the proximity to public open space and other amenities is unlikely to compensate sufficiently for the absence of direct access to any external amenity space in which to play. No communal amenity space is proposed for the development.
17. As such, the proposal would fail to meet the minimum policy requirements and would be to the detriment of the quality and useability of the accommodation provided. I attribute significant weight to the harm arising from the lack of any private or communal external amenity space.
18. The proposed internal layout results in the majority of the flats being single aspect. However the Council has not evidenced that single aspect flats are intrinsically harmful to the living conditions of occupants, not that the development plan policies requires units to be at least dual aspect. In deed, the technical reports provided demonstrate that light levels and ventilation would be acceptable.
19. Nevertheless, the accommodation would not meet acceptable minimum standards in terms of private and communal amenity space. Consequently, the proposed development would result in an unsatisfactory living environment for future occupiers contrary to Policies LP26 and LP29 of the LP regarding housing quality and standards.

20. Policy LP26 of the LP promotes high quality design. This policy requires development to, amongst other things, provide high standards of accommodation for housing in terms of size, quality and arrangement of internal space, external private and external communal amenity space, and access to useable open space.

*Impact on Epping Forest SAC.*

21. The appeal site is located within the zone of influence of the Epping Forest SAC, a habitat recognised under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitat Regulations) as being of international importance for rare habitats. In this case, an area of ancient semi natural woodland and grassland plains in Epping Forest. Caselaw requires the decision maker, when considering the effect that a proposal may have on such a European Site, to consider mitigation within an Appropriate Assessment rather than at screening stage.
22. In the absence of mitigation measures and using a precautionary approach, given the proximity to the SAC it is reasonable to suppose that future residents of the proposed development would potentially visit the SAC for recreational purposes and dog- walking. Intensification of such activities would be likely to cause disturbance and trampling to the habitat and species they support. As such, there is a risk of a significant effect on the internationally important interest features of the SAC.
23. Reference is made in the evidence to the Epping Forest SAC Mitigation Strategy, an established strategic approach to mitigating the adverse effects of new housing development through two main avoidance measures. Namely, the provision of Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM). These are funded by contributions from new development and secured by a legal agreement.
24. The appellant has submitted a Unilateral Undertaking (UU) dated 29 August 2024 which would provide £17,029.80 towards the provision of SANG and £2302.56 towards SAMM. The evidence indicates that these align with the requirements of the strategic approach, and the Council has not suggested otherwise, nor raised any other objection to the UU.
25. On that basis the proposal would meet the requirements of Policy LP39 of the LP. This policy states, amongst other things, that the Council will not permit development which would adversely affect the integrity of Epping Forest SAC, except for reasons of overriding public interest, and only where adequate compensatory measures are provided. I am also satisfied that the obligations meet the 3 tests in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended).
26. In the absence of other significant concerns, it would have been necessary to consult Natural England under Regulation 63(3) of the Habitat Regulations and complete an Appropriate Assessment. However, given the harm found in relation to the other main issues, I consider that this would be unnecessary as it is unlikely to be determinative to the outcome of the appeal. In the circumstances, I have treated this matter as a neutral factor in the overall planning balance.

## **Other Considerations**

### *Fallback Position*

27. Approval for a similar scheme of development was granted under Prior Approval legislation. The appellant has advanced the fallback position of implementing the approved scheme if permission for the alternative appeal scheme is not granted.
28. This demonstrates a keen desire to secure residential development on this site, and a greater than theoretical possibility of the appellant pursuing the fallback position. The appellant considers that the appeal proposal presents a demonstrably and materially improved scheme compared with the 'fallback' position, particularly in terms of the quality of accommodation that it would provide.
29. The appeal scheme would, however, fail to provide adequate private amenity space for flats 1 and 2, which are 2-bed units. Although the Prior Approval scheme would not provide balconies, they are all one-bed units. The likely future occupants of those units are less likely to have young children, and as such, the lack of access to direct external space could be better addressed by the proximity to local amenities including nearby public open space.
30. It is also pointed out that all 14 units would be single aspect, but as the appellant indicates and I have found in relation to the appeal scheme, there is nothing intrinsically objectionable in policy terms or the configuration of the site to single aspect units.
31. Moreover, the fallback position would provide a greater number of units towards overall housing supply, which is an important advantage in light of the shortfall in provision in the borough. It is not convincingly explained why the unit mix proposed in the appeal scheme would be preferable in this context.
32. Therefore, I am not persuaded that the appeal scheme represents an upgrade relative to the fallback position. It follows, its existence does not weigh in favour of allowing the proposal.

### *Housing delivery test*

33. The current 5-year housing land supply position and housing delivery test result (2021/22) for the London Borough of Redbridge is a significant material consideration in the determination of this appeal. The Council has confirmed that it has delivered 50% of its annual housing target for the 3 years up to 2021/22 and accepts that this constitutes a very significant shortfall, which has led to 'Action Plan' status being applied since January 2019. This is a matter I shall consider further in the planning balance.

## **Planning Balance and Conclusion**

34. The development would be harmful to the character and appearance of the area and would fail to achieve an acceptable standard of living conditions for all future occupants having regard to the provision of external amenity space. There would be conflict with development plan policies in those respects. Given that the relevant policies accord with the Framework, the conflict I have identified attracts full weight in this case.

35. The proposed flats would contribute towards boosting the housing supply in a highly accessible location and could be delivered relatively quickly. By developing above an existing retail unit, it would make more efficient use of a brownfield site. Support for these factors is found in the Framework. There would be economic benefits arising from the construction, and from the likely economic activity of future occupants. Cumulatively, given the housing delivery position these factors weigh significantly in favour of the proposal.
36. There is no dispute that the circumstances described in footnote 8 of the Framework are met and that as such paragraph 11d(ii) applies. This states 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, having regard to specified key policies.
37. Paragraph 135 of the Framework is identified as a key policy in paragraph 11. Amongst other things, this states that planning decisions should ensure developments will function well and add to the overall quality of the area and are visually attractive. In addition, a high standard of amenity for future users should be ensured. It will be seen that I have found the proposal would fail in these respects. The Framework emphasises that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.
38. The permanent adverse impacts in this respect would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole. It follows that the presumption in favour of sustainable development does not apply.
39. Therefore, the proposal would be contrary to the development plan when read as a whole and there are no material considerations, including the Framework, to indicate that a decision should be taken other than in accordance with that plan.
40. The appeal is dismissed.

*N Kempton*

INSPECTOR