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## Appeal Decision

Site visit made on 23 February 2016

**by Susan A F Simpson LLB Solicitor (N-P)**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 22 March 2016**

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### **Appeal Ref: APP/J1535/W/15/3128832**

### **71-73 Queens Road, Buckhurst Hill, Essex IG9 5BW**

- 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 Safraz Ali against the decision of the Epping Forest District Council.
  - The application Ref EPF/2345/14, dated 20 September 2014, was refused by a notice dated 4 February 2015.
  - The development proposed is the extension of existing building involving retention of existing A1 units at ground floor level together with the creation of 6 flats on upper floors and at rear.
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### **Decision**

1. The appeal is allowed and planning permission granted for the extension of existing building involving retention of existing A1 units at ground floor level together with the creation of 6 flats on upper floors and at rear at 71-73 Queens Road, Buckhurst Hill, Essex IG9 5BW in accordance with the terms of the application, Ref EPF/2345/14, dated 20 September 2014 and the plans submitted with it, but subject to the following conditions
    - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
    - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: QR/200B; QR/201A; QR/202A; QR/301; QR/302 and QR/500.
    - 3) The window in the eastern elevation of the building shall at all times contain obscure glazed glass details of which shall be submitted to and approved in writing by the local planning authority. Thereafter, the said window shall be fitted with the approved obscure glazed glass before the building is first occupied and shall be non opening below 1.7 m from finished floor level.
    - 4) No development shall take place until samples of the materials and finishes to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Thereafter, development shall be carried out in accordance with such approved details.
    - 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be
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adhered to throughout the construction period. The Statement shall provide for: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; wheel washing facilities; measures to control the emission of dust and dirt during construction; the erection and maintenance of security hoarding; a scheme for recycling/disposing of waste resulting from demolition and construction works.

- 6) Demolition and construction works shall not take place outside the following times: 0730 hours to 1830 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays and shall not take place at all on Sundays or bank holidays.
- 7) Development shall not begin until a surface water drainage scheme for the site has been submitted to and approved by the local planning authority. The scheme shall be implemented in accordance with the approved details before the building is first occupied.

### **Preliminary Matter**

2. The Council has referred to an error in its decision notice. Reference to policy CP2(ix) of the 2006 adopted Alterations to the Epping Forest District Local Plan (ALP) should read CP2(iv). The appellant has accepted, and I have duly noted, the correction.

### **Main Issues**

3. The main issues in the appeal are the effect of the proposal upon:
  - the character and appearance of the area;
  - neighbouring residents' living conditions at 2, 2A and 4 Kings Avenue with specific reference to a loss of privacy due to overlooking.

### **Reasons**

*Character and appearance of the area.*

4. Nos 71 and 73 (the building) are located at the western end of a terrace of properties that front onto Queens Road. The residential units occupying the first and second floors of the building are well set back from the ground floor A1 units which form part of the shopping area at Buckhurst Hill. Properties fronting the neighbouring street (Kings Avenue) are situated at right angles to the site and their long gardens extend beyond the rear boundary of the site.
5. I am informed that, in 2004, the appeal premises was granted planning permission (Ref EPF/1260/04) (the 2004 scheme) for the development described as "extension of the existing building involving the retention of existing A1 units at ground floor level together with the creation of six flats on upper floors and at rear". There are differences between this scheme and the proposal but these have not been specifically identified and agreed at appeal stage. Thus, although I have taken the approval of the 2004 scheme into account, I shall proceed to determine the appeal proposal on its own merits.
6. The development would involve the erection of various extensions to the front, side and rear of the building in order to accommodate the provision of six flats

- and the retention of the two ground floor retail units. Parking for this commercial aspect of the proposal would be provided to the rear of the site and accessed via a lane that adjoins the western boundary of the site.
7. Queens Road benefits from a wide range of properties of differing heights, scale and appearance. There are terraces with ground floor retail units, two storey dwellings, large three storey premises and others with accommodation in the roof space. These buildings and their varied architecture together with the mix of residential and commercial uses combine to form a diverse and interesting built environment.
  8. The accommodation to be provided within the new roof space would increase the bulk of the building at upper floor level. It would extend further forward, be perceived as being three storeys in height and project above the other properties in the terrace. The development would undoubtedly change the appearance and size of the building and its resulting presence would be more noticeable when travelling in both directions along Queens Road.
  9. However, such changes would provide a well balanced and proportioned building that in terms of height, scale and mass would not be out of place with other buildings that front and form part of the street scene along Queens Road. Further, its relationship with the remainder of the terrace would not be more assertive or dominant than that which exists in respect of the terrace on the corner of Queens Road and Kings Place.
  10. To the rear, the proposed two storey extension would be 5 m from the northern boundary of the site. Thus, together with the increase associated with the single storey extension, there would be a material increase in the already large footprint of the appeal premises but not to the extent that it would be deemed wholly incompatible with the site coverage of some premises in this mixed commercial and residential area.
  11. The increased size and bulk of the rear projections would be larger than others in the terrace but, in terms of the overall size of the resulting building, it would not be inconsistent with others in the locality. The rear extensions would have little impact upon the appearance of the street scene but, as argued by the Council, they would be apparent to nearby residents along Kings Avenue.
  12. Even so, whilst this aspect of the development may materially alter the current outlook from within the dwellings and the garden/balcony to the rear of these properties which are most likely to be used for sitting out purposes (the sitting out space), the intervening distance would ensure that it would not be to the extent of being unduly oppressive or overbearing.
  13. I conclude that the height, bulk, size and design of the building would not be out of place with the diverse built forms found in the locality but satisfactorily integrate into the mixed character and appearance of this area.
  14. It follows from my conclusion that I find there to be no conflict with policies CP2(iv) CP7 and DBE1 of the ALP which, amongst other things, require that proposals should: safeguard and enhance the setting, character and townscape of the urban environment; maintain and improve existing urban areas as attractive places to live, work and visit; not result in overdevelopment,

unsympathetic change or loss of amenity; respect their setting in terms of matters such as scale, proportion, siting, massing, height and roofline.

15. The scheme also would be consistent with government guidance in the National Planning Policy Framework (the Framework) which attaches great importance to the design of built development and states that it is important to plan positively for the achievement of high quality and inclusive design for all development.

*Neighbouring residents' living conditions.*

16. The existing two flats at the appeal premises already have views across to the neighbouring gardens in Kings Avenue and closer and more intrusive views of their sitting out space currently exist from the actual/potential occupation of the upper floor accommodation at Nos 65, 67 and 69 Queens Road. Thus, this is an area where intervisibility between properties is already commonplace and, therefore, forms part of the living environment for residents of this mixed use location.
17. The drawings indicate that, although most of the new openings at first and second floor level in the rear elevation of the building would be larger and all of them would serve habitable accommodation, there would not be as many as in the present situation relating to the two current flats. Also, the windows would be located closer to the rear boundary, where the principal outlook associated with their use would be across to the bottom end of the long gardens belonging to the Kings Avenue properties as opposed to their sitting out space.
18. The position of the roof lights would preclude any overlooking but the dormer window in the eastern elevation of the building would provide an outlook across to the sitting out space for Nos 2, 2A and 4 Kings Avenue and beyond. As such there would be opportunities to intrude upon the privacy of their neighbours during periods of relaxation. However, as a secondary window designed to serve a living room/kitchen, I consider it reasonable to eliminate the potential for overlooking by imposing a condition requiring the window to be fitted with obscure glazed glass.
19. Accordingly, for the reasons given above and, in the light of the prevailing intervisibility that currently exists between properties along Queens Road and Kings Avenue, I conclude that the proposed habitable room windows associated with this scheme would not result in an excessive loss of amenity for neighbouring properties at 2, 2A and 4 Kings Avenue as a result of overlooking.
20. It follows from this conclusion that I find there to be no conflict with the provisions of: - policy DBE9 which states that development should not result in an excessive loss of amenity for neighbouring properties in terms of overlooking; Government guidance in the Framework which states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

**Other Matters**

21. With regard to the objections lodged by local residents, I consider that the development would be sufficiently distant to ensure that there would be no

harmful degree of overshadowing, loss of light or noise and disturbance to occupiers of the Kings Avenue properties.

22. The Council has not objected on the grounds that the development provides insufficient amenity space for future occupiers and my attention has not been drawn to any policies or supplementary planning guidance which specifies minimum standards for the provision of amenity space for new development in locations such as this.
23. Turning to the access road to the side of the building, I understand that this is currently being used by the occupiers of the appeal premises. In the light of this, and in the absence of any firm highway evidence to support local residents' views that its increased use by pedestrians and cyclists associated with this scheme would lead to conditions that would be prejudicial to highway safety, I find there to be insufficient grounds to dismiss the appeal on this issue alone.
24. As the provision of parking to the rear of the site is for the sole use of the commercial units, I note the concerns that have been expressed regarding any increased demand for kerbside parking in this busy area from the residential element of the scheme. However, Buckhurst Hill is well supported by public transport and benefits from a wide range of shopping facilities. Given this highly sustainable location, I see no reason to disagree with the professional views that have been expressed regarding the lack of on-site parking associated with the residential aspect of the development.
25. The Buckhurst Hill Parish Council has questioned the adequacy of the emergency means of escape for future occupiers of the second floor residential accommodation but this is a matter which is regulated and controlled by other legislation. With regards to the adequacy of refuse storage, this is shown on the drawings and without any firm evidence to the contrary, I have no reason to question the Council's judgment that the provision would be acceptable.
26. Various references have been made to the planning decisions and appeals relating to 69 Queens Road but I can find no direct comparison with any of these and the proposal before me. I also note the pre-application discussions that took place with the planning officers and the appellant's dissatisfaction with the way the application was subsequently dealt with by the Council.

### **Conditions**

27. I have considered the Council's suggested conditions in the light of the guidance contained in the Planning Practice Guidance, Annex A of the former Circular 11/95, and government policy in paragraphs 203 and 206 of the Framework. In order to accord with the aforementioned and, in the interests of clarity and succinctness, I have modified the wording of some of the suggested conditions.
28. In the interests of certainty and proper planning, I shall attach a condition requiring the development to be built in accordance with the agreed plans. In order to protect the character and appearance of the area I shall require samples of the materials and finishes for the building to be submitted and approved by the Council. Given the commercial location, I consider it reasonable and necessary to impose conditions requiring a construction method

statement to be agreed and specifying the hours during which construction works can take place so that local residents are able to enjoy some periods of peace and quiet.

29. A condition requiring the window in the eastern elevation to contain obscure glazed glass will be imposed for the reasons given in paragraph 18 above. Given the comments made by the Council's land drainage team, I see no justification for a flood risk assessment to be carried out but I have imposed a condition requiring details of surface water drainage to be submitted, approved and implemented.
30. Lastly, I have not imposed the suggested condition regarding the provision of residential travel information packs as no indication has been given as to their content, status or how the Council would expect the developer to implement their provisions.

### **Overall Conclusion**

31. Having taken into account all the matters that have been raised, I find that none alter my conclusion that, for the reasons given above, this appeal should succeed.

*S A F Simpson*

INSPECTOR