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## Appeal Decision

Site visit made on 27 June 2017

**by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC**

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

**Decision date: 21<sup>st</sup> July 2017**

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**Appeal Ref: APP/J1535/W/17/3173094**

**Land to the rear of 83 Queen's 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 David Hutchinson against the decision of Epping Forest District Council.
  - The application Ref EPF/2894/16, dated 31 October 2016, was refused by notice dated 1 February 2017.
  - The development proposed is erection of a single storey three-bedroom dwelling with green roof.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey three-bedroom dwelling with green roof at land to the rear of 83 Queen's Road, Buckhurst Hill, Essex IG9 5BW in accordance with the terms of the application, Ref EPF/2894/16, dated 31 October 2016, subject to the ten conditions in the attached schedule at the end of this decision.

### Procedural Matter

2. The description of the proposed development is taken from the decision notice and appeal form, as it is clearer and more precise than the description provided on the original application form.

### Main Issues

3. The main issues are:
  - (a) the effect of the development on the character and appearance of the area;
  - (b) the effect of the development on the living conditions of the future occupiers of the proposed dwelling with particular regard to privacy; and
  - (c) whether suitable access to the site would be provided.

### Reasons

#### *Character and appearance*

4. Queen's Road comprises two storey buildings of a variety of ages and architectural styles that largely front onto the road with little backland development. Between Andrews Close and the parade of retail units at 75-81 Queen's Road, properties are large and broadly fill the width of their plots. They have long rear gardens containing numerous mature trees.

5. The appeal site is located to the rear of 83 Queen's Road on a currently unused and overgrown plot of land with no significant trees other than a mature oak tree next to the enclosed rear yard space for No 83. It forms part of the green backdrop to the properties at 83-95. The site can be seen from the private car park to the rear of the retail units at Nos 75-81 with mature trees beyond. It can be glimpsed from the pavement in front of No 83 along the access drive, but otherwise is largely hidden from public viewpoints. For the avoidance of doubt, I have given little weight to the site's current unkempt condition.
6. The proposed dwelling would be unusual in terms of its backland siting and single storey height. However, the dwelling utilises a contemporary and sensitive design with a shallow pitched and green roof that would help it to blend in with the green backdrop to the rear of Nos 83-95. It would be inconspicuous when viewed from the pavement in front of No 83 due to the design and set back. It would be more noticeable from the private car park, but its limited height would not obscure the view through to the mature trees. The oak tree next to the rear yard space for No 83 would not be greatly affected and nor would any other significant tree.
7. The footprint and width of the dwelling would be comparable to properties at Nos 83-95. It would not have the length of rear garden of many of these properties, but the garden size would be similar to the enclosed rear yard space for occupiers of No 83. The front elevation would contain the main entrance and, while set behind properties, would face towards Queen's Road and be partly visible from the pavement. Thus, the dwelling would not look out of keeping with its surroundings.
8. Concerns have been raised about the setting of an undesirable precedent for further similar development. I am conscious the members of the planning committee overturned the officer's recommendation with concerns about backland development in particular. However, it would depend on the specific circumstances of any given site and the design solutions put forward. Each case would need to be treated on its own merits considering all relevant issues. Equally, any material alteration to the proposed development, including an additional storey, would likely require a new planning application and a fresh consideration of the relevant issues.
9. Concluding on this main issue, the proposed development would have an acceptable effect in terms of the character and appearance of the area, where the unusual siting and height would be offset by the overall design. Thus, it would accord with Policies DBE1(i) and DBE3(v) of the Epping Forest District Local Plan 1998 (DLP) and Policies CP2(iv), CP3(v) and CP7 of the Local Plan Alterations 2006. Amongst other things, these policies seek development that respects and safeguards the setting and character of the urban environment. It would also meet the aims of the National Planning Policy Framework (NPPF) in terms of securing good design.

*Living conditions of future occupiers of the dwelling*

10. The first floor windows of the flats at 83 Queen's Road look directly towards the appeal site. The proposed dwelling would only have one window on the front elevation that would serve a bedroom. While there might be some overlooking of this window from No 83, it would be angled downwards across a reasonable separation distance. Moreover, there would likely be cars for the proposed dwelling parked in front of the bedroom window for parts of the day. Any

overlooking from the rear elevation of other neighbouring properties on Queen's Road would be limited by the angle and height of development and intervening boundary treatment. Thus, there would be little harm to the living conditions of future occupiers of the dwelling in terms of privacy.

11. The incorporation of courtyards on either side of the dwelling with multiple doors and windows facing onto these spaces would ensure adequate light levels to internal spaces, notwithstanding mature trees to the west on adjacent properties. As such, there would be little harm to living conditions in terms of light. The size of internal and external spaces would also be sufficient for the size of the property.
12. Concluding on this main issue, the proposed development would have an acceptable effect on the living conditions of future occupiers. Thus, it would meet the aims of the NPPF in securing a good standard of amenity for all future occupants of land and buildings.

#### *Suitability of site access*

13. There is an existing access drive between 83 and 85 Queen's Road that would be utilised by the proposed development. Although the access is narrow and angled, it is wide enough for cars to use. As a single dwelling, there would be relatively few vehicle movements and any car would be travelling at a slow speed due to the access dimensions. Thus, the amount of noise generated would be limited and infrequent and the likelihood of any conflict with pedestrians and cyclists accessing No 83 or the new dwelling would be low. Moreover, the proposed drawings show sufficient turning space in front of the dwelling for vehicles to manoeuvre and leave the site in forward gear, further reducing the risk of conflict.
14. Concluding on this main issue, the proposed development would provide suitable access to the site and would not cause adverse effects in terms of noise or safety. Therefore, it would accord with DLP Policy DBE2 which seeks to avoid detrimental effects on existing neighbouring properties in either amenity or functional terms. It would also meet the aims of the NPPF in securing a good standard of amenity for all existing and future occupants of land and buildings.

#### **Other Matters**

15. The low key and sensitive design of the proposed dwelling means that it would have a limited effect on living conditions of neighbouring occupiers including 85 Queen's Road and 10 Westbury Avenue in terms of outlook. The level of noise and lighting that would be generated by a single dwelling in this location is unlikely to be significant enough to cause much disturbance to neighbouring occupiers.
16. Based on my site visit, it would appear that the private external space for occupiers of 83 Queen's Road is contained within the enclosed yard to the rear of the building. This space would not be affected by the development and so there would be no loss of private external space for occupiers of this building. Similarly, it does not appear that there is any parking space for No 83 at the rear, and the three spaces at the front would be unaffected by the development.

17. There is some debate over the ownership of the access drive between 83 and 85 Queen's Road. However, this is a legal matter that would need to be discussed separately between the affected parties. It does not affect the planning merits of this case.
18. The Council confirms that it cannot demonstrate a five year housing land supply, which means that relevant policies for the supply of housing are out of date in accordance with paragraph 49 of the NPPF. Having had regard to paragraph 14 of the NPPF as a consequence, there are no adverse impacts arising from this development that would significantly and demonstrably outweigh the benefits of providing an additional house to boost local supply.
19. I have had regard to the policies in the draft Local Plan as supplied by the Council. I concur with the Council that only limited weight can be applied to the draft Local Plan given that it is a relatively early stage of preparation. Nevertheless, nothing in the policies supplied leads me to come to a different conclusion on this proposal.

### **Conditions**

20. Conditions 1 and 2 setting a time limit for the commencement of development and for it to be carried out in accordance with the approved plan are necessary for clarity and compliance. Condition 3 is necessary to ensure that adequate protection of trees occurs during the construction works, noting the comments of the Council's trees and landscape officer that the existing report needs to be updated with further information. It is a pre-commencement condition to ensure that tree impacts are known and addressed before works begin. Condition 4 is necessary to ensure that the sedum green roof has an acceptable effect on the character and appearance of the area.
21. Condition 5 is necessary in the event that unexpected land contamination is discovered during the construction works. Condition 6 is necessary in the interests of safeguarding the living conditions of occupiers of neighbouring properties. Given the specific design of the dwelling and the site circumstances, Condition 7 is necessary in the interests of character and appearance and living conditions to restrict extensions and alterations of the property under permitted development rights.
22. Condition 8 is necessary to ensure adequate parking and turning space is provided in the interests of highway safety. Condition 9 is necessary to encourage sustainable modes of transport, while Condition 10 is necessary to restrict the effects of construction activities on the occupiers of nearby properties.

### **Conclusion**

23. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

*Tom Gilbert-Wooldridge*

INSPECTOR

### **Schedule of 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: 1023\_01\_P3, 1023\_02\_P3, 1023\_03\_P3, 1023\_04\_P3, 1023\_05\_P3, 1023\_06\_P3, 1023\_07\_P3, Arboricultural Report by Phelps Associates (dated 12 August 2015) and the Design and Access Statement.
- 3) No development, including works of demolition or site clearance, shall take place until a Tree Protection Plan, Arboricultural Method Statement and site monitoring schedule in accordance with BS:5837:2012 (Trees in relation to design, demolition and construction - recommendations) have been submitted to the Local Planning Authority and approved in writing. The development shall be carried out only in accordance with the approved documents.
- 4) No construction work above ground level shall take place until details of the sedum "green roof" have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such approved details and retained as such.
- 5) Should any discoloured or odorous soils be encountered during development works or should any hazardous materials or significant quantities of non-soil forming materials be found, then all development works should be stopped, the Local Planning Authority contacted and a scheme to investigate the risks and / or the adoption of any required remedial measures be submitted to and approved in writing by the Local Planning Authority prior to the recommencement of development works. Following the completion of development works and prior to the first occupation of the site, sufficient information must be submitted to demonstrate that any required remedial measures were satisfactorily implemented or confirmation provided that no unexpected contamination was encountered.
- 6) Access to the roof of the dwelling hereby approved shall be for maintenance or emergency purposes only and the roof shall not be used as a seating area, roof garden, terrace, patio or similar amenity area.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any other Order revoking, further amending or re-enacting that Order) no development generally permitted by virtue of Class A of Part 1 of Schedule 2 to the Order shall be undertaken without the prior written permission of the Local Planning Authority.
- 8) Prior to the first occupation of the development, the vehicle parking and turning areas as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. The parking and turning areas shall be retained thereafter for their intended purpose.
- 9) Prior to first occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, which shall have first been submitted to and approved in writing by the Local Planning Authority.

- 10) All construction/demolition works and ancillary operations, including vehicle movement on site, shall only take place between the hours of 07.30 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays.