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## Appeal Decision

Site visit made on 3 November 2014

**by J Flack BA Solicitor**

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

**Decision date: 8 December 2014**

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**Appeal Ref: APP/J1535/A/14/2224609**

**The Queen's Rooms, 69 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 Mrs Sevi Stamboliyski against the decision of Epping Forest District Council.
  - The application Ref EPF/1247/14, dated 28 May 2014, was refused by notice dated 6 August 2014.
  - The development proposed is additional ductwork to flat roof at rear as addition to existing extract system.
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### Decision

1. The appeal is allowed and planning permission is granted for additional ductwork to flat roof at rear as addition to existing extract system at The Queen's Rooms, 69 Queens Road, Buckhurst Hill Essex IG9 5BW in accordance with the terms of the application, Ref EPF/1247/14, dated 28 May 2014, and the submitted drawing numbered SEV/300A.

### Preliminary matters

2. The site address is given in the application form as "Queens Tea Rooms", but I saw on my site visit that the current fascia sign uses the name above. The application form states the postcode as IG5 9BW, but from the other documents before me it is clear that the correct postcode is that given above.
3. Prior to the determination of the application, the appellant submitted a revised drawing, numbered SEV/300A (the revised drawing), showing changes to the ductwork to accord with modifications recommended by the Council's Environmental Health Officer. It is apparent that the Council determined the application on the basis of the revised drawing, and interested persons have also commented on it. I have therefore assessed the proposal on the basis of the revised drawing.

### Main Issue

4. The main issue is the effect of the proposal on the living conditions of nearby residential occupiers.

### Reasons

5. The appeal property is a café, wine bar and grill occupying the ground floor of a two storey older building within the town centre area of Buckhurst Hill, close to

the junction of Queens Road with Kings Avenue. Kings Avenue is a residential road, but in the vicinity of the appeal site Queens Road has a strongly commercial character characterised by retail, restaurant and other business uses at ground floor level with a mixture of commercial and residential uses on the upper floors.

6. The proposal shown on the revised drawing consists of metal extract ducting terminating in a flue. The ducting consists of a horizontal section across the flat roof of a recently constructed rear extension to the property, together with a vertical section which is positioned close to a first floor rear projection from the original rear wall and extends upwards to a level a little above the eaves of this wall and the rear extension of the next door property. An existing vertical extract duct adjacent to the vertical section of the proposed new ductwork is shown as being retained. At my site visit I saw that extract ducting and a flue was in place which substantially accords with the revised drawing, and I consider therefore that the appeal proposal has been implemented.
7. The Council has not submitted a statement, but it states in its decision notice that it considers the extract flue to be excessively prominent and visually intrusive due to its size and position in relation to adjacent residential properties, thereby resulting in excessive harm to the amenities of neighbours.
8. The extract ductwork and flue are not visible from the public highway, save a very small portion of the horizontal element which can be glimpsed through a ground floor archway in Kings Avenue. Nevertheless, the entirety of the system is visible from the rears of neighbouring residential properties, in particular the upper floors of 2/2A Kings Avenue, a residential property with a shared boundary with the appeal property. However, the ductwork and flue are positioned some distance from that boundary.
9. Moreover, the rears of the appeal property and neighbouring properties in Queens Road have a piecemeal, utilitarian and somewhat unattractive appearance typical of older commercial properties which have been subject to alterations in line with changing business needs. The new ductwork and flue comprised in the proposal are in my view consistent with this context. They are located adjacent to a further metal extract flue and a very tall clay chimney pot, and are seen against a backdrop of various flat roofs, railings and commercial equipment, including a number of air conditioning units at the rear of the property at the corner of Queens Road and Kings Avenue.
10. Given the above context, whilst I acknowledge the concerns of residents, I do not consider that the appeal proposal has resulted in an unacceptably adverse effect on their living conditions in terms of visual intrusion or detriment to outlook.
11. Residents have also raised concerns relating to noise and odour. During my site visit the extract system was put into operation, and whilst the noise of a fan was audible from the ductwork and flue at extremely close quarters, the noise was at a low level and I do not consider that it would cause any significant disturbance to nearby residents. I also note that nothing in the evidence before me indicates that the Council's Environmental Health Officer has had concerns relating to noise from the system. At the time of my site visit during the day, the grill was not in use, and I was unable to assess the emission of odours. However, whilst I note that residents have expressed strong concerns in this regard and that the Environmental Health Officer has investigated these, the

appellant has produced a letter from the Officer dated 22 September 2014 which states that following implementation of the modifications, and the carrying out of seven visits, no statutory nuisance can be established. I consider therefore that the proposal has not resulted in an unacceptably adverse effect on the living conditions of nearby residential occupiers in terms of noise or odour.

12. Taking account all of the evidence before me, my overall conclusion is that the appeal proposal will not have any unacceptably adverse effect on the living conditions of nearby residential occupiers. The proposal complies with Policy DBE9 of the Epping Forest District Local Plan 1998, which requires that new development does not result in an excessive loss of amenity for neighbouring properties taking into account, amongst other things, visual impact, noise, smell or other disturbance.
13. The appeal is therefore allowed. The Council has not suggested any conditions: I consider that none are necessary given that the proposal has been implemented, although for the avoidance of doubt and in the interests of proper planning it is necessary for my decision to refer to the revised drawing.

*J Flack*

INSPECTOR