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## Appeal Decision

Site visit made on 4 June 2019

**by Sarah Dyer BA BTP MRTPI MCMi**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 June 2019**

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### **Appeal Ref: APP/J1535/W/18/3218625**

### **55 High Street, Epping CM16 4BA**

- 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 Vanda Watling against the decision of Epping Forest District Council.
  - The application Ref EPF/1847/18, dated 4 July 2018, was refused by notice dated 10 October 2018.
  - The development proposed is described as 'redevelopment of existing shop with flat above, involving alteration and refurbishment of existing building plus new two storey building to the rear containing two flats'.
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### **Decision**

1. The appeal is dismissed.

### **Main Issues**

2. The main issues are:
  - The effect of the development on the living conditions of the occupiers of:
    - the existing flat on the first floor of 55 High Street with regard to privacy and outlook, overlooking and access.
    - No.s 53 and 57 High Street with regard to outlook.
  - Whether the proposed development would provide acceptable living conditions for future occupants, with regard to privacy and outlook, the potential for noise and disturbance and access.

### **Reasons**

#### *Living conditions (53, 55 and 57 High Street)*

3. 55 High Street (No. 55) is part of a terrace of buildings which front High Street. It is flanked by No. 53 and No. 57. The appeal site has a two-storey outshot to the rear which shares a gable with a similar feature on No. 57. Both buildings have single storey flat roof elements to the rear. A two- storey detached building has been constructed to the rear of No. 53 and No. 51 which is accessed by a passageway leading off High Street between the two buildings. No. 51 also has a deep two-storey outshot. The overall character of the group of buildings is of a close-knit conglomeration of built forms.

4. The appeal scheme would introduce a two-storey detached building into the rear garden of the site to accommodate two flats. Changes would also be made to the layout of the existing building to form a passageway from High Street to provide access to the existing flat and the new flats. Partially enclosed cycle and bin stores would be made available between the rear walls of the refurbished shop and the new building.
5. There are first floor windows in No. 55, one in the main building serving a bedroom and an obscure glazed window in the outshot serving a bathroom. The outlook from these windows is towards the rear of the site which is currently open and the supermarket car park beyond the tree on the boundary. Access to the first floor flat in No. 55 is via a staircase within the ground floor shop unit, however there are two doors within the shopfront which would facilitate a separation of the access to the flat.
6. The outlook from the first-floor windows in No. 55 would be altered. Nevertheless, given the nature of the built forms in the vicinity, the roof over the bin store and the external appearance of the new building, this outlook would not be significantly harmful to the living conditions of the occupiers of No. 55. Similarly, the window to window distance between the upper floor windows in the first floor flat in No. 55 and the new building would be comparable with those between windows in the adjacent development at No. 53 and would not give rise to an unacceptable degree of overlooking.
7. As a consequence of the appeal scheme, access to the first floor flat would be provided via a passageway which would also serve the new flat block. The access would be gated and would provide a safe and convenient access to the upper floor of No. 55.
8. There is a window in the rear elevation of No. 53 which provides oblique views of the appeal site. The outlook from the first-floor window in No. 53 is already dominated by the two-storey building which lies to the rear and the flue serving the commercial use. This window is set off the boundary by a significant distance and the introduction of the new flat block in the view from it would not be harmful to the living conditions of the occupiers of No. 53. Similarly, the amenity area serving the flats to the rear of No. 51 and No. 53 is well screened and would not be adversely affected by the development.
9. The boundary between the appeal site and No. 57 is a dilapidated fence and there are clear views between the two rear gardens. There are windows in the ground floor projecting element of No. 57, the first floor and an outbuilding adjacent to the rear fence. All of these windows provide an oblique view of the site.
10. Whilst the footprint of the new flat block would not be dissimilar to that of the building to the rear of No. 53, as a consequence of its full two storey height it would have a significantly greater enclosing effect on the outlook from the garden area associated with No. 57. The reintroduction of a fence between No.s 55 and 57 as is proposed would improve the outlook from the ground floor windows in No. 57, including those in the outbuilding. However, a significant part of the side wall of the flat block would be visible above the fence and this would adversely affect the outlook from the ground and first floor windows in No. 57 and its garden, leading to a deterioration in living conditions.

11. The distance between the rear windows in No. 55 and the side gable of the flat block to the rear of No. 53 is materially greater than would be the case between No. 57 and the appeal scheme. In that respect I do not find the impact of the development to the rear of No. 53 on the living conditions of No. 55 to be directly comparable with the appeal scheme. Therefore, in this respect, it attracts limited weight in my determination of the appeal.
12. In summary whilst the appeal scheme would preserve the living conditions of the occupiers No.s 53 and 55 High Street it would have a harmful impact on the occupiers of No. 57 in relation to outlook. Therefore, the development is contrary to Policy DBE2 of the Epping Forest District Local Plan (1998) (the Local Plan) and Policy CP7 of the Epping Forest District Local Plan Alterations (2006) (the Local Plan Alterations). These policies jointly, amongst other things, resist new development in urban areas which would result in loss of amenity to neighbouring properties.

*Living Conditions (Future occupants)*

13. The proposed flats to the rear of the site incorporate windows facing the adjacent car park and back towards the existing terrace. I have already concluded that the arrangement of first floor facing windows would not compromise privacy or outlook.
14. The outlook from the ground floor window would be towards the bin storage area, however there would be adequate space for screen planting which could be secured by planning condition. Such screening would provide for a reasonable outlook from the bedroom window and reduce the impact on privacy arising from the use of the bin store and cycle parking area. Access to the upper floor would be located in a projecting element of the building which would segregate the comings and goings associated with its use from the ground floor bedroom window. As such the layout of the site would ensure that an acceptable level of privacy was provided to residents of the ground floor flat.
15. The proposed layout of the site separates most of the activity associated with the shop from the residential units and I have very limited evidence before me to indicate that any harm would arise from the interaction between the two uses. On this basis, I see no reason to conclude that the use of the shop, even during extended opening hours, would lead to unacceptable living conditions for future occupants.
16. The proposed amenity space to serve the occupiers of the existing flat and the new flats takes the form of a courtyard and a garden. There would be two access points to the garden one from the ground floor flat via folding doors and the other via a narrow gap between the building and the boundary fence. Whilst the width of the side access may deter occupants of the upper flat from accessing the garden it would enhance the enjoyment of the balcony at first floor level. Access to amenity space for the occupiers of the existing flat would be likely in practice to be limited to the courtyard, nevertheless in the close-knit urban context of the site this would, on balance, be appropriate.
17. I conclude that the appeal scheme would provide acceptable living conditions for future occupants, with regard to privacy and outlook, the potential for noise and disturbance and access. In this respect, the development accords with Policies DBE3 and DBE5 of the Epping Forest District Local Plan (1998) (the

Local Plan) and Policy CP7 of the Epping Forest District Local Plan Alterations (2006) (the Local Plan Alterations). These policies jointly, amongst other things, require that all spaces are functional and safe for their intended users, that layouts allow for convenient movement within the development and resist new development in urban areas which would result in loss of amenity.

### **Other Matters**

18. The appellants cite a benefit of the development as making efficient use of land in a highly accessible location, which attracts significant weight in favour of the development. Whilst the contributions which it would make towards the supply of housing and the vitality and viability of the town are also referred to, there is limited evidence to substantiate these benefits, consequently they attract limited weight in favour of the development.
19. The appellants consider that the Council cannot demonstrate a five-year supply of housing land (5YHLS) and the Council has not disputed this. Even if I were to conclude that there is a shortfall in the 5YHLS and that relevant policies for the supply of housing should be considered out-of-date, the adverse impact of the development which would arise from the harm to the living conditions of the occupiers of No. 57 would significantly and demonstrably outweigh the benefits which I have identified.
20. The Council has confirmed that the site is close to Epping Forest. The Forest is defined as a Special Area of Conservation (SAC) because it is an important conservation site and a SAC falls within the definition of a European site. The Conservation of Habitats and Species Regulations 2017 requires that where any proposal is likely to have a significant effect on a European site either alone or in combination with other plans or projects, an appropriate assessment must be made in view of that site's conservation objectives. However, as I am dismissing for other reasons it is not necessary for me to consider this matter further as it could not change the outcome of this appeal.
21. I acknowledge the concerns raised by Epping Town Council, the Epping Society and local residents, in addition to those relating to the main issues which I have identified, including the impact of building operations, parking provision and traffic. Given that I find the proposal to be unacceptable for other reasons, and any such concerns would have no bearing on my overall planning balance, it is not necessary for me to address these matters any further as part of this decision.

### **Conclusion**

22. For the reasons set out above, the appeal is dismissed.

*Sarah Dyer*

Inspector