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## Appeal Decision

Site visit made on 13 August 2019

**by D Peppitt BA (Hons) MA MRTPI**

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

**Decision date: 23<sup>rd</sup> September 2019**

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### **Appeal Ref: APP/J1535/W/19/3226911 Rear of 165 High Road, Loughton IG10 4LF**

- 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 SAFL Property Ltd against the decision of Epping Forest District Council.
  - The application Ref EPF/3302/18, dated 10 December 2018, was refused by notice dated 20 March 2019.
  - The development proposed is the erection of a one storey roof extension to provide an additional 2 no. flats (2 x 1-bedroom penthouse flats).
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### **Decision**

1. The appeal is allowed and planning permission is granted for the erection of a one storey roof extension to provide an additional 2 no. flats (2 x 1-bedroom penthouse flats) at the rear of 165 High Road, Loughton IG10 4LF, in accordance with the terms of the application, Ref EPF/3302/18, dated 10 December 2018, subject to the conditions set out in the schedule below.

### **Procedural Matters**

2. The Council is currently working on the emerging Epping Forest District Local Plan, Submission Version, published December 2017. I have not been provided with details of the extent to which any objections to its policies are unresolved, I can only afford this plan limited weight.
3. On my site visit I noted that construction work had commenced on the site. However, the site already has planning permission for a 5-storey development of 12 flats<sup>1</sup>. The building work was at too early a stage to determine if the submitted appeal proposal was being implemented alongside the existing permission.
4. The appellant has submitted a number of plans and a right to light report that were not submitted with the original planning application. However, the appellant has stated that these were available when the decision was made at planning committee. It is not clear from the evidence to what extent interested parties had the opportunity to view these additional plans and letter. However, these plans only show additional sightlines and modelling images from those originally submitted. The letter<sup>2</sup> assessed the impact of the proposed

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<sup>1</sup> Planning permission reference EPF/2600/14 – permission granted on appeal APP/J1535/W/15/3065764, dated 15 October 2015

<sup>2</sup> Letter from Anderson Wilde and Harris Rights of Light Surveyor (18 March 2019)

development on 9 Station Road in regard to daylight, sunlight and overshadowing. It concludes there is no impact from the proposed development as the lit area figure is unchanged. The report does not change the proposed development or recommend any changes. Therefore, I have taken this into account in my decision, as I do not consider that the development is so changed that it would deprive those who should have been consulted on the development the opportunity of such consultation.

### **Main Issue**

5. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

### **Reasons**

6. The site is located to the rear of 165 High Road within Loughton Town Centre. The area comprises a mix of commercial, retail and residential uses and the buildings vary in height, although these are predominately between 3 to 4 storeys. The site is accessed between 165 High Road and a retail shop. The proposal seeks to add an additional storey to the existing permission, bringing the total to 6 storeys, which would provide an additional 2 one bedroom flats.
7. The approved scheme when complete, will be the tallest building in this part of High Road. Reference has been made to a previous appeal on the site<sup>3</sup>, in terms of the Inspector's assessment of the character of the area. In the report the Inspector noted that although other nearby buildings have less storeys, due to their greater head height, the difference in overall height is relatively small. The Inspector considered that the approved scheme would not harm the character and appearance of the area and would lead to enhancement of the area. Whilst I agree with her findings and attach some weight to her decision, it does not automatically mean that this planning appeal should be approved. Consequently, I have determined this appeal on its own individual merits.
8. The appellant has provided examples of other developments that have been approved where building height was considered, some of which are on High Road<sup>4</sup>. Whilst I note these schemes have been approved and some are on High Road, I only give these limited weight as they are not within the immediate context of the proposed development. In any case, I must assess the proposal on its individual merits.
9. The proposed development would sit approximately 1.7 metres above the already approved scheme and would be set in from the elevations of the building. The design of the proposal means that views towards it would be limited from the majority of public vantage points. Further, even from the views where it would be visible, the full extent of the development would not be observable, therefore I do not consider that the proposed addition would create a visible towering effect. The nature of the design means that it would not be unduly prominent or overly dominant within the street scene. I therefore find that it could be satisfactorily accommodated within the established character of the locality and would not harm the character and appearance of the surrounding area.

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<sup>3</sup> APP/J1535/W/15/3065764 – allowed, 15 October 2015

<sup>4</sup> EPF/2163/13, EPF/2737/16 and EPF/1245/16

10. For the above reasons, I conclude that the proposed development respects the character and appearance of the area and accords with Policies DBE2 and DBE1 of the Epping Forest District Local Plan, adopted January 1998. These Policies seek, amongst other things, to safeguard and enhance the urban environment, provide a high quality of design and ensure that new development is of a scale, massing and height that respects its setting.

### **Other Matters**

11. I note there were a number of concerns raised by interested parties. These were in respect of overlooking, light and view, setting a precedent, noise and disturbance and traffic congestion. Those relating to the main issue have been considered above.
12. The positioning and design of the proposed development and the existing developments nearby would not result in a loss of privacy, light or view that would make the proposal unacceptable.
13. In respect of precedent, each application and appeal must be determined on its individual merits and a generalised concern of this nature does not justify withholding permission in this case.
14. The degree of noise and disturbance for occupiers of surrounding properties is unlikely to be so severe as to warrant the dismissal of this appeal. However, I agree that a condition is necessary to limit the hours of construction which I have dealt with below. As the proposal is a car free development, it would not lead to a demonstrable change in traffic levels.
15. None of these other matters, whether considered individually or cumulatively, weigh significantly against allowing the proposed development.
16. The appeal site lies within 3km of the Epping Forest Special Area for Conservation (SAC) and as such the development would have the potential for increased visitor pressure on the SAC. Due to the location of the site, the emerging Policy DM 2 of the Epping Forest District Local Plan, published December 2017, requires that a financial contribution is made. During the course of this appeal the appellants submitted a signed s106 Planning Obligation in the form of a Unilateral Undertaking dated 3 September 2019, which undertakes to pay a financial contribution before commencement of the development. All new housing development brings about demand for public open space facilities, therefore, I am satisfied that the proposed contribution would be necessary to make the development acceptable in planning terms. It would be directly related, and fairly and reasonably related in scale and kind, to the development proposed. I am satisfied that this planning obligation meets the three tests set out in the National Planning Policy Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. I have therefore attached weight to this contribution in reaching my decision.

### **Conditions**

17. I have considered the conditions suggested by the Council and, where appropriate, amended them to ensure they comply with the advice in the Planning Practice Guidance. In addition to the standard time limit conditions, requiring the development to be completed in accordance with the approved plans and the specification of the external materials are necessary, to ensure the development provides a satisfactory appearance. To ensure the living

conditions of the occupants of the proposed units and nearby properties are protected conditions restricting the times demolition and construction works can be undertaken. As the development is a car free development, the Residential Travel Information Pack is necessary, in the interests of reducing the need to travel by car and promoting sustainable transport.

18. The council has suggested a condition on water efficiency with an efficiency standard of 110 litres or less per person per day. However, I have not been provided with cogent evidence to justify going beyond the standard building regulations requirement, therefore, I have not included this condition.

### **Conclusion**

19. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal is allowed, and planning permission is granted, subject to the conditions contained in the attached schedule.

*D Peppitt*

INSPECTOR

### **Schedule of Conditions (5 in total)**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 939-A002, 939-A100B, 939-A102B, 939-A110A, 939-A500A, 939-A502A, 939-A600A, 939-A602A, 939-A610A, 939-A620A, 939-A702A, 939-A710A, 939-A720A, 939-A730A, 939-A800A, 939-A802A, 939-A810A, 939-A812A, 939-A820A, 939-A822A, 939-A830A and 939-A832A.
- 3) The external surfaces of the development hereby permitted shall match those of the approved building under planning application EPF/2600/14 (materials as agreed under application EPF/2996/18).
- 4) Demolition or construction works shall take place only between the hours of 07.30 to 18.30 on Monday to Friday and 08.00 to 13.00 hours on Saturdays, and shall not take place at any time on Sundays or on Public or Bank Holidays.
- 5) Prior to the first occupation of the development, the Developer shall be responsible for the provision, implementation and distribution of a Residential Travel Information Pack for sustainable transport, as approved by the local planning authority, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each flat free of charge.

### **End of Schedule**