

Report to District Development Management Committee



**Epping Forest
District Council**

Report Reference: EPF/0542/20
Date of meeting: 22 July 2020

Address: Rear of 165 High Road, Loughton, IG10 4LF

Subject: Revisions to Building 2 rear building (Approved under EPF/2600/14) to include penthouse as allowed under appeal APP/J1535/W/19/3226911 and internal and external alterations.

Responsible Officer: Muhammad Rahman (01992 564415)

Committee Secretary: Gary Woodhall (01992 564470)

Recommendation(s):

This application carried an officer recommendation to grant permission when reported to Area Planning Sub-Committee South at their meeting on 1 July 2020. Members proposed a new condition for a privacy screen of some 1.65m high to prevent overlooking to the properties on station road from the roof terrace, along with modifying condition 6 to ensure that the windows meet the British Standard BS 8233: 2014 - Guidance on Sound Insulation and Noise Reduction for buildings - Code of practice (or such other standard which may supersede it from time to time). The conditions are as follows;

1. The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice. Reason:- To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).
2. The development hereby permitted will be completed and retained strictly in accordance with the approved drawings numbers: 2K19/1/HRL/PL02, 2K19/1/HRL/PL03, 2K19/1/HRL/PL04, 2K19/1/HRL/PL05, 2K19/1/HRL/PL06, 2K19/1/HRL/PL07, 2K19/1/HRL/PL08, 2K19/1/HRL/PL09, 2K19/1/HRL/PL10, 2K19/1/HRL/PL11 and 2K19/1/HRL/PL12. Reason: To ensure the proposal is built in accordance with the approved drawings
3. Materials to be used for the external finishes of the proposed development shall match those stated on the approved plans, unless otherwise agreed in writing by the Local Planning Authority. Reason:- To safeguard the visual amenities of the locality, in accordance with policy DBE1 of the adopted Local Plan and Alterations 1998 & 2006, policy DM9 of the Local Plan Submission Version 2017, and the NPPF 2019
4. All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, 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 unless otherwise agreed in writing by the Local Planning Authority. Reason:- In the interests of the amenities of noise sensitive properties, in accordance with policies RP5A and DBE9 of the adopted Local Plan and Alterations 1998 & 2006,

policy DM21 of the Local Plan Submission Version 2017, and the NPPF 2019.

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. Reason: In the interest of sustainable transport choices.
6. The window opening(s) serving the flats (Habitable rooms) in the side elevation facing the rear of No's 167 & 169 shall be non-openable and meet the British Standard BS 8233: 2014 - Guidance on Sound Insulation and Noise Reduction for buildings - Code of practice (or such other standard which may supersede it from time to time) and shall be permanently retained in that condition in perpetuity. Reason:- To safeguard the living conditions of occupiers from noise and odour, in accordance with policy DBE9 of the adopted Local Plan and Alterations 1998 & 2006, policy DM9 and DM10 of the Local Plan Submission Version 2017, and the NPPF 2019.
7. The commercial units shall not be open to customers / members outside the hours of 8am to 6pm on Monday to Saturday and 10am to 5pm on Sundays and Bank Holidays. Reason: In order to minimise disturbance to local residents, in accordance with policies RP5A and DBE9 of the adopted Local Plan 1998 & 2006, policy DM21 of the Local Plan Submission Version 2017, and the NPPF 2019.
8. Prior to the first occupation of the development, details of a privacy screens to the roof terraces of no lower than 1.65 metres high shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented before occupation in accordance with the approved details and so retained. Reason:- To safeguard the amenity of neighbouring properties from overlooking, in accordance with policy DBE9 of the adopted Local Plan and Alterations 1998 & 2006, policy DM9 of the Local Plan Submission Version 2017, and the NPPF 2019.

This application has been included within the agenda of this committee as a consequence of a discrepancy in the recounting of votes at the Sub-Committee meeting. This then resulted in a motion for the case to be considered by Members of the District Development Management Committee. This was supported by four Members of the Area Planning Sub-Committee South for approval of the application with the new and amended conditions.

Additional comments below were received from the Environmental Health Team on the day of the South Planning Committee meeting and this was read out during the course of the presentation, requesting that an informative is included in any decision notice to alert prospective residents of the location of the flues.

The previous officer's report below has been amended to include further details of the increase in footprint of the penthouse, and the increase in height of the existing flue to No.165A (Ginger Pig) as set out under the proposal section, and a section of the Epping Forest Special Area of Conservation has been added.

This application is before this Committee since it is for a type of development that cannot be determined by Officers if five objections are received (or in cases where less than 5 were consulted, a majority of those consulted object) on grounds material to the planning merits of the proposal (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council).

Site and Surroundings

The site is to the rear of 165 High Road within the built-up area of Loughton. It was formerly the car parking area to 165 High Road. The site is accessed by an access way between 165 High Road and the Marks and Spencer on the opposite side. The site is not within the Metropolitan Green Belt or a Conservation Area, nor is it listed.

The site has planning permission for a 6-storey development of 14 flats. Following my site visit it was clear that much of the skeletal frame of the above development has been constructed, and the applicant has confirmed they have implemented the recent permission allowed on appeal under EPF/3302/18.

Proposal

The proposal is for revisions to Building 2 rear building (Approved under EPF/2600/14) to include penthouse as allowed under appeal APP/J1535/W/19/3226911 and internal and external alterations.

As the recent penthouse appeal EPF/3302/18 has been implemented, the following consents (EPF/3176/18 & EPF/3177/18) can no longer be implemented as it will result in a materially different scheme to what was approved under the above appeal.

Therefore, the proposal seeks to amalgamate the previous approved consent EPF/3176/18 (NMA No. 3) and the recent penthouse allowed under appeal EPF/3302/18, and proposes the following main amendments;

1. Changes to fenestration on rear (East) elevation facing the rear car park;
2. Changes to window sizes and enclosure of the access walkway on side/front (North/West) elevation facing the rear of No's 167, 169;
3. Slight increase to the corner footprint of the building by approx. 300mm, including the removal of balconies, and variations to windows with Juliet balcony on side (South) elevation facing the access road and Marks and Spencer's;
4. Increase of footprint of penthouse (Increase of 15.12 Sqm to Flat 13 & Increase of 3.79 sqm to Flat 14);
5. New materials and external finishes and internal alterations; and
6. Extending the existing flue for the 'Ginger Pig'(165A High Road) by Approx. 5.3m.

Relevant Planning History

EPF/2600/14	The demolition of an existing outbuilding and a small section of stairwell to the rear. The erection of a 5-storey building to the rear of the site to provide one commercial unit (Use Class A2) at ground floor and 12 flats (8 x 1 bedroom and 4 x 2-bedroom flats) on upper floors. The refurbishment and revitalisation of the existing building to the front of the property including the erection of an additional floor to provide 2 x 1-bedroom flats	Allowed on Appeal
EPF/0522/16	Non - material amendment to EPF/2600/14 (No.1)	Approved
EPF/1184/16	Change of use from retail to use for purposes within Use Class A2	Approved
EPF/2458/17	Removal of 2 no. shop fronts. Installation of 2 no. traditional shop fronts including sliding folding entrance doors, window display, concealed sun blind and panelled fascia. Ducting to be installed to the rear building elevation to extract from the cooking room and rotisserie	Approved
EPF/3134/17	Application for approval of details reserved by condition 3 'cooking/food preparation fumes and smell' on planning application EPF/2458/17 (Removal of 2 no. shop fronts. Installation of 2 no. traditional shop fronts including sliding folding entrance doors, window display, concealed sun blind and panelled fascia. Ducting to be installed to the rear of the building elevation to extract from the cooking room and rotisserie)	Details Approved
EPF/2055/18	Non-material amendment to planning application EPF/2600/14 (No.2)	Approved
EPF/2609/18	Application for Approval of Details Reserved by Condition 4 'Construction Method Statement' of EPF/2600/14.	Details Approved

EPF/2996/18	Application for Approval of Details Reserved by Condition 20 for EPF/2600/14 "matching materials".	Details Approved
EPF/3176/18	Non-Material Amendment to EPF/2600/14 for alterations to windows, brickwork, balconies and roof. (No.3)	Approved
EPF/3177/18	New windows, raise handrail in brick and glass, plus extend the flue.	Approved
EPF/3255/18	Application for Approval of Details Reserved by Conditions 8 & 9 - window details (ref Appeal: APP/J1535/W/15/3065764 & EPF/2600/14)	Details Approved
EPF/3302/18	Erection of a one storey roof extension to provide an additional 2 no. flats (2 x 1-bedroom penthouse flats) (- as an addition to 5 storey building being erected on the site under EPF/2600/14.)	Allowed on Appeal
EPF/0607/19	Application for Prior Notification for a proposed demolition of an existing building.	Approved
EPF/1162/19	Proposed split of an approved single A2 unit into x 2 no. A2 units with alterations to doors to elevation.	Approved
EPF/0280/20	Application for a Non-Material Amendment to EPF/3302/18 - For the removal of air source heat pumps & the inclusion of the released space into amenity & green roof together with a minimal increase to the north flat to allow the reconfiguration internally to allow an additional small bedroom/study.	Refused
EPF/0282/20	Application for a Non-Material Amendment to EPF/3177/18 - Amendment to Balconies, Flue omitted & Addition of Electrical Intake Cupboard.	Refused
EPF/0426/20	Revisions to Building 1 fronting the High Road (Approved under EPF/2600/14) for 4 x studio flats (replacing approved 2 x 1 bed flats), one storey roof extension providing 2 x 1 bed flat and new lift and staircase.	In Progress

Development Plan Context

Local Plan and Alterations 1998 & 2006 (LP)

Section 38(6) Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan currently comprises the Epping Forest District Council Adopted Local Plan (1998) and Alterations (2006).

The following policies within the current Development Plan are considered to be of relevance to this application:

CP1	Achieving Sustainable Development Objectives
CP2	Protecting the Quality of the Rural and Built Environment
CP3	New Development
CP6	Achieving Sustainable Urban Development Patterns
CP7	Urban Form and Quality
H2A	Previously Developed Land
H4A	Dwelling Mix
U3B	Sustainable Drainage Systems
DBE1	Design of New Buildings
DBE2	Effect on Neighbouring Properties
DBE3	Design in Urban Areas
DBE6	Car Parking in New Development
DBE8	Private Amenity Space
DBE9	Loss of Amenity
ST4	Road Safety
ST6	Vehicle Parking

National Planning Policy Framework 2019 (Framework)

The Framework is a material consideration in determining planning applications. As with its predecessor, the presumption in favour of sustainable development remains at the heart of the NPPF. Paragraph 11 of the NPPF provides that for determining planning applications this means either;

- a) approving development proposals that accord with an up-to-date development plan without delay; or
- b) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole

The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making, but policies within the development plan need to be considered and applied in terms of their degree of consistency with the Framework.

In addition to paragraph 11, the following paragraphs of the NPPF are considered to be of relevance to this application:

Paragraph 108 - 110
 Paragraph 117
 Paragraph 124, 127
 Paragraph 175

Epping Forest District Local Plan Submission Version 2017 (LPSV)

Although the LPSV does not currently form part of the statutory development plan for the district, on 14th December 2017 the Council resolved that the LPSV be endorsed as a material consideration to be used in the determination of planning applications.

Paragraph 48 of the NPPF provides that decision-takers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

The LPSV has been submitted for Independent Examination and hearing sessions were held on various dates from February 2019 to June 2019. The appointed Inspector has indicated an intention to provide advice to the Council by 12th July 2019; this advice will be given without prejudice to the Inspector's final conclusions.

As the preparation of the emerging Local Plan has reached a very advanced stage, subject to the Inspector's Advice regarding the need for additional MMs, significant weight should be accorded to LPSV policies in accordance with paragraph 48 of Framework. The following table lists the LPSV policies relevant to the determination of this application and officers' recommendation regarding the weight to be accorded to each policy.

Policy	Weight afforded
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SP1 Presumption in Favour of Sustainable Development	Significant
SP2 Spatial Development Strategy 2011-2033	Some
H1 Housing Mix and Accommodation Types	Some
T1 Sustainable Transport Choices	Significant
DM2 Epping Forest SAC and the Lee Valley SPA	Significant
DM3 Landscape Character, Ancient Landscapes and Geodiversity	Significant
DM5 Green and Blue Infrastructure	Significant
DM9 High Quality Design	Significant
DM10 Housing Design and Quality	Significant
DM11 Waste Recycling Facilities on New Development	Significant
DM15 Managing and Reducing Flood Risk	Significant
DM16 Sustainable Drainage Systems	Significant
DM17 Protecting and Enhancing Watercourses and Flood Defences	Significant
DM18 On Site Management of Wastewater and Water Supply	Significant
DM19 Sustainable Water Use	Significant
DM21 Local Environmental Impacts, Pollution and Land Contamination	Significant
DM22 Air Quality	Significant

Summary of Representations

Number of neighbours Consulted: 36. 5 response(s) received

Site notice posted: Yes

9 STATION ROAD – Objection – Summarised as;

- It already grossly detracts from our skylight.
- It already grossly interferes with our right to privacy as their apartments overlook our back garden and house
- It is an ugly eyesore that detracts from the low-rise character of the high street and surrounding areas.

12 STATION ROAD – Objection – Summarised as;

- The building already has a negative effect on the look / skyline of Loughton and is a horrible eyesore. It blocks any view from my son's bedroom, which looks into the towering block.
- It adds further to congestion in an already overstretched infrastructure in Loughton and puts further strains and demands on our transportation system in tube, buses and cars. The roads in Loughton high road are already in gridlock most of the time.
- It is bad for the environment and creates more pollution of many types. (air, noise, garbage, human waste...)
- Adding a roof extension further adds to the already enormous size of this monstrous building and further deprives privacy plus having a detrimental effect in our own house, and it's future worth.
- It is out of character with the surrounding area already with only low-rise buildings on the High Road and everywhere around.
- Doubling the number of flats from 2 to 4 doubles the number of people, hence double the congestion, pollution, etc

22 STATION ROAD – Objection – Summarised as;

- Loss of light and privacy.

167 HIGH ROAD – Objection – Summarised as;

- Object to the widening of windows indicated in the drawings, I own a restaurant immediately next door with pre-existing kitchen extraction and wood fired pizza extraction and insist that the council affords me protection from this development. It is unacceptable and wrong to allow the developer to place this building with windows that open within ten meters of my kitchen and wood fired pizza extraction without any consideration of the impact of my restaurant on the future residents' right to be afforded good quality air. Additionally, I have a large atrium which opens and will cause noise nuisance.

LRA (PLANS GROUP) – Objection – Summarised as;

- Overall extra bulk is being added to the building which is already too large. It is out of keeping with this part of Loughton and is highly visible from the junction at High Beech Road.

EFDC ENVIRONMENTAL HEALTH – Comments received

EFDC LAND DRAINAGE – No comment

ECC FIRE AND RESCUE SERVICE – No objection

LOUGHTON TOWN COUNCIL – The Committee OBJECTED to this application on the grounds that it believes that this development, alone or in conjunction with others, may have an adverse effect on the Epping Forest Special Area of Conservation. Accordingly, the Committee believes that it would be unsafe and unsound to grant this application, by virtue of the greater number of occupants living there. This proposal includes an additional bedroom from the plans approved by the Appeal Inspector under EPF/2600/14. Members would not be willing to attend and speak against this application, having no further comments to make.

Planning Considerations

The 6-storey building has been approved (at appeal) under planning reference EPF/3302/18 and the permission has been implemented with much of the skeletal frame constructed. This application therefore only concerns the proposed amendments.

Therefore, the main issues for consideration in this case are:

- a) The impact on the character and appearance of the locality; and
- b) The impact to the living conditions of neighbours.

Character and Appearance

The amendments have been proposed following issues with safety, statutory building regulations and utilities, that were raised by Building Control and the Fire safety officer.

The proposed amendments including the proposed materials and external finishes are considered to be acceptable. Therefore, it is considered that there will be no further impact

to the character and appearance of the wider area and that of the street scene.

Living conditions of neighbours & future occupiers

The proposed amendments will have no material impact to neighbouring occupiers and would provide an acceptable standard of accommodation for future occupiers of the building.

The windows to the habitable rooms facing the side (North) Elevation looking onto the rear of No's 167 and 169 may be conditioned to be non-openable windows to prevent any harmful impact from any noise or smell from nearby commercial units.

Other Considerations

The flue for the Ginger Pig as shown on the submitted plans, is now within the site ownership of building 2 and has been previously approved under EPF/2458/17 & EPF/3134/17. It is proposed to extend this flue so as to prevent any further harmful noise or odour to the occupiers of the building. Notwithstanding the comments from Environmental Health, raising the flue any higher, (1 metre above the penthouse) will have a harmful visual impact to the street scene and the wider area.

The subdivision of the A2 commercial unit into two separate A2 units as shown on the proposed plans was approved recently under EPF/1162/19, and it is appropriate to include the hours of use condition with this consent for clarity.

Most of the neighbour objections are not related to the proposed amendments currently under consideration. The objection from the parish council regarding the SAC is noted, but due to the extant planning permissions for the development and the fact the current application does not propose to increase the number of dwelling units it is accepted that the current proposal will not have any additional impact on the visitor pressure or air quality of the SAC.

Conclusion

For the reasons set out above, having regard to all matters raised, it is recommended that conditional planning permission is granted.

Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the day of the meeting at the latest:

**Planning Application Case Officer: Muhammad Rahman
Direct Line Telephone Number: 01992 564415**

**or if no direct contact can be made please email:
contactplanning@eppingforestdc.gov.uk**