
Appeal Decision

Site visit made on 6 January 2021

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 28 January 2021

Appeal Ref: APP/J1535/C/20/3255849

15 Forest Drive, Theydon Bois, Epping, Essex CM16 7EX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mustafa Osman against an enforcement notice issued by Epping Forest District Council.
 - The enforcement notice was issued on 3 June 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection on the Land of an enclosed raised platform on the forecourt, at the front facing elevation, shown hatched in the approximate position and marked 'A' on the plan attached.
 - The requirements of the notice are
 - i) Remove the raised platform and enclosure from the forecourt.
 - ii) Remove all debris from the Land following compliance with step (i) above
 - The period for compliance with the requirements is 2 months
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been made under ground(a), an application for planning permission is deemed to have been made under Section 177(5) of the Act.
-

Decision

1. The appeal is dismissed and the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under Section 177(5) of the Act 1990.

Background Matters

2. The appellant made an application for retrospective planning permission¹ for the development, the subject of the notice. The Council refused the application as the development was considered to be visually intrusive and out of keeping with the area due to its depth, design, materials used and height of the balustrade. An enforcement notice was subsequently issued for the same reasons in June 2020.

Main Issue

3. The main issue is therefore the effect of the development on the character and appearance of the surrounding area.

¹ EPF/2228/18

Reasons

4. The appeal site is made up of a fish and chip shop with accommodation at first floor level within a row of shops, cafes, and restaurants with a similar row on the opposite side of the road. The majority of the establishments to both sides of this part of the road retain open frontages.
5. The development consists of an enclosed raised platform in front of the shop with a ramp to the front door. The platform and ramp are made up of light coloured tiles with a balustrade style boundary enclosure of glass panels edged with silver metal rails.
6. The Council refers to Policy DBE1 of the Epping Forest District Council Combined Local Plan (1998) & Local Plan Alterations (2006) (the Local Plan) which states, amongst other things, that development should respect its setting in terms of scale, height, and detailing. The Council's emerging Epping Forest Local Plan (EFLP) is said to be at an advanced stage but is not adopted and I have limited details of what outstanding matters are yet to be resolved. Nevertheless, Policy DM9 of the EFLP which is also referred to by the Council has similar aims to Policy DBE1 in seeking to ensure that development is visually attractive and functions well within the surrounding area. Policy DBE1 of the EFLP can therefore be afforded moderate weight in my determination of this appeal.
7. The combination of light coloured tiles, metal and glass appears at odds with the surrounding area where frontage treatments where they exist are more modest and use darker colours. At the time of my site visit, some areas of the light coloured tiles also had green staining which detracts further from the overall appearance of the development. The height of the balustrade and depth of the platform combined with the overall design and the materials used particularly within a row of buildings where open frontages are prevalent is visually obtrusive and out of keeping with the area. Although, the appellant has referred to not objecting to conditions, matters such as height and design could not be overcome by way of conditions.
8. The appellant states that the level of the platform is governed by the floor level of the shop and to lower the height would reduce its purposes. Firstly, the appellant indicates that the development is needed to make the shop accessible for disabled users. However, there is no evidence before me to indicate why the extent of the development with a raised enclosure across the whole of the front is required. The second purpose is said to be to house and protect large decorative pots of flowers which the appellant considers adds to the street scene and the glass element is needed so that the pots are visible. However, the moveable plant pots are not necessarily a permanent feature and do not require a raised platform. Their presence does not, in any event, outweigh the visual harm that I have identified.
9. Comparisons are made by the appellant with next door's frontage on the basis that the development is in line with and lower than the planters to the front of next door. However, the restaurant next door has a grey floor enclosed by a border of box planting made of dark wooden decking with no solid raised platform element. The two frontage treatments are therefore not comparable. The appellant has referred to a suggested brick finish wall as not being an appropriate alternative. However, the details of any alternative scheme would be a matter for discussion between the parties. Although, the appellant does

not agree that glass can be visually intrusive, it has to be assessed in context and as part of the development. Its extensive use with metal edging as a boundary treatment does, in my view, contribute to visual harm.

10. The development does therefore harm the character and appearance of the area as a result of its depth, design, materials used and height of the balustrade. It is in conflict with Policy DBE1 of the Local Plan which, amongst other things, states that development should respect its setting in terms of scale, height, and detailing. It is also in conflict with Policy DM9 of the EFLP which, amongst other things, states that development is visually attractive. Although the Council has also referred to Policy I4 of the Local Plan and D7 of the EFLP in the reasons for issuing the notice, they relate to enforcement procedures and are not relevant to the main issue of this appeal.

Conclusion

11. For the reasons given, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under Section 177(5) of the Act as amended.

E. Griffin

INSPECTOR