



Appeal Decision

Site visit made on 25 February 2021

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2021.

Appeal Ref: APP/J1535/W/20/3261582

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 grant of planning permission subject to conditions.
 - The appeal is made by Mr Kevin Desouza, SFL Properties Ltd against the decision of Epping Forest District Council.
 - The application Ref EPF/0542/20, dated 5 March 2020, was approved on 22 July 2020 and planning permission was granted subject to conditions.
 - The development permitted is 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.
 - The condition in dispute is No 8 which states that: 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.
 - The reason given for the condition is: To safeguard the amenity of neighbouring properties in Station Road from overlooking, in accordance with policy DBE9 of the adopted Local Plan 1998 & 2006, policy DM9 of the Local Plan Submission Version 2017 and the NPPF 2019.
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Decision

1. The appeal is allowed and the planning permission Ref EPF/0542/20 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 at Rear of 165 High Road, Loughton IG10 4LF granted on 22 July 2020 by Epping Forest District Council, is varied by deleting condition 8.

Procedural Matter

2. Whilst the appeal relates to the imposition of condition 8, the whole proposal is before me and I am not, therefore, restricted to dealing with only the elements relating to the disputed condition. Notwithstanding that I have no substantive evidence to lead me to a different conclusion to the Council with regard to the proposal itself and will therefore focus the appeal decision on the disputed condition only.

Background and Main Issue

3. The appeal site has a complex planning history. I understand that planning permissions has been granted and implemented for a 6 storey development

comprising commercial use of the ground floor with residential dwellings above. It was clear from my site visit that the development of the site was significantly advanced, I was able to access the roof terraces to assess the area to which condition 8 relates.

4. The appeal seeks permission to carry out the development without complying with condition 8. This requires the provision of privacy screens to the roof terrace serving two penthouse flats. The main issue is the effect that removing condition 8 would have on the living conditions of occupants of neighbouring properties on Station Road.

Reasons

5. The National Planning Policy Framework (2019) (the Framework) states that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
6. The approved scheme provides a wall around the penthouse outside space which was in place at the time of my site visit and does restrict to a degree views from windows and the terraced areas towards Station Road.
7. The use of an outdoor terraced area could lead to noise, disturbance and overlooking of neighbouring properties. However, there is permission in place for two penthouses at the appeal site with balconies which are not subject to a condition requiring privacy screens. Whilst the proposed terraces are larger than the approved balconies, I am not persuaded that the use of these would cause a level of noise, disturbance and overlooking beyond that which has already been approved.
8. Existing windows facing Station Road within the development offer a degree of overlooking of neighbouring properties. This combined with the separation distances between the proposed development and the neighbouring properties and that the approved scheme permits unrestricted balconies to the penthouses I find that it is not necessary or reasonable to impose condition 8.
9. I conclude that the removal of condition 8 would not harm the living conditions of the occupants of neighbouring properties on Station Road. The proposed development without compliance with condition 8 would not conflict with Policy DBE9 of the Epping Forest District Local Plan (1998 and alterations 2006) and Policy DM9 of the emerging Epping Forest District Local Plan (Submission Version 2017) (the LPSV) which seek to protect the living conditions of occupants of neighbouring properties. The LPSV has not been adopted and policies could be subject to further modification, however the policies attract some weight.
10. There is no conflict with the Framework which seeks to ensure places are well designed with high standards of amenity for existing and future users.

Other Matters

11. Concerns have been raised with regard to the effect of the proposed development on the Epping Forest Special Area of Conservation and the loss of green roof space. I note that the Council have not raised these as a concern and I have no substantive evidence before me to disagree.

Conclusion

12. For the reasons set out above, I conclude that the appeal should be allowed.

C Pipe

INSPECTOR