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## Appeal Decision

Site visit made on 25 August 2021

**by Steven Hartley BA (Hons) Dist.TP (Manc) DMS MRTPI MRICS**

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

**Decision date: 24 September 2021**

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**Appeal Ref: APP/J1535/W/21/3268335**

**The Hub, 1 Landmark House, 3 The Broadway, Loughton IG10 2FA**

- 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 The Hub, Loughton Ltd against the decision of Epping Forest District Council.
  - The application Ref: EPF/2668/19, dated 7 August 2019, was refused by notice dated 23 September 2020.
  - The development proposed is described as a 'new front façade to existing shell for public house with new front elevation signage and new air conditioning/ventilation system'.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. A revised National Planning Policy Framework (the Framework) was published in July 2021, and this post-dates the Council's refusal notice. As part of the determination of this appeal, I afforded the main parties an opportunity to comment upon the implications of this change for the purposes of determining this appeal. I have determined this appeal in accordance with the relevant parts of the development plan including the Framework.
3. The local planning authority (LPA) has referred in its decision notice to the Epping Forest Local Plan submission version (2017) (ELP) which has yet to complete its examination in public and is not therefore an adopted policy document. I therefore afford it limited weight.
4. The appeal is made retrospectively for development already implemented.
5. The appeal proposal includes new front elevation signage. However, advertisements are subject to other legislation and I am unable therefore to consider the signage element of the proposed development as part of this appeal under section 78 of the Town and Country Planning Act 1990.

### Main Issues

6. The main issues are (i) the effect of the front façade and awnings to the public house upon the character and appearance of the area and (ii) the effect of the

ventilation system upon the living conditions of adjoining occupiers by reason of noise and odour.

## **Reasons**

### *Character and appearance*

7. The appeal site is a public house within the recently constructed Landmark House, a mixed-use development with other commercial premises on the ground floor and with some 64 residential units at upper levels (first to sixth floors). The building complex is within the built-up area of Debden and is part of the District Centre of Loughton Broadway.
8. The front façade which is the subject of the appeal has a brick plinth with curtain walling and integrated doors. The awnings project by some 2 metres. Taking into account the design of this development, including its height and depth and the use of glazing, I am satisfied that the whole of this development is compatible with the design of the modern building and with the overall character and appearance of the wider area.
9. Therefore, I conclude that the front façade and awnings to the public house comply with policy DBE12 of the Epping Forest District Local Plan and Alterations (1998 and 2006) (ELP) which, while it refers to shopfronts, is applicable in this instance to the public house, and which requires such development to be in keeping with the character and appearance of the upper elevations of the associated buildings. The façade and awnings also accord with paragraph 130 of the Framework and its promotion of good design.

### *Living conditions*

10. The appeal relates to the retention of extractor equipment for the public house and where the external vents are at ground floor level in the carpark/service area. There are apartments immediately above them including balconies.
11. The appellant considers that the extractor system, or something very like the current arrangement, was previously approved as part of the original consents for the public house. The LPA makes no reference to any such approvals. Apart from the reference to the planning application numbers, I have no information before me to verify what might have been previously approved and so I am unable to afford this planning history significant weight in the planning balance. In any event, the proposed development is for the retention of the existing system, and I have therefore determined the appeal on its individual planning merits. If the appellant considers that there is already planning permission in place for an extraction system, then that is a separate matter.
12. Both parties make reference to reports relating to noise and odour levels resulting from the extractor system. However, neither main party has included such reports with their appeal submissions and so I cannot be certain as to their analysis regarding such matters.
13. On my site visit, I was able to assess the existing extractor system from the point of view of noise. While I accept that this was only a snapshot in time, I was able to compare the situation when it was both turned on and off. I could not detect any significant difference, and not above the noise from an extractor fan from an adjoining, unrelated commercial unit. In any event, it would be

possible to ensure by condition that noise levels were kept within certain specified limits and that the system was turned off when the public house was not open for business.

14. Prior to my site visit, the appellant, via the agent, was asked in writing that the '*extracting equipment be turned on and with cooking proceeding in the kitchen*'. However, I was not able to form a view on the issue of odour, as raised by several third-party objectors, as the kitchen was not in operation at the time of my site visit. I was able to observe that the venting system has an inlet which is directly under balconies to apartments above, and an extractor fan under windows but not directly under balconies. I was also able to sense cooking odours from a small extractor fan from an adjoining but unconnected commercial business, though at this time they were not excessively strong.
15. While the LPA refers to a study by KP Acoustics which concludes that the current extraction system makes the airstream odourless, I was unable to verify this for the above reason.
16. I cannot therefore be certain that odour levels can be sufficiently contained to such an extent that they would not cause unacceptable harm to the living conditions of the occupiers of nearby residents.
17. For the above reasons, I am unable to conclude, on the evidence before me, that the development accords with policy RP5A of the ELP which aims to protect householders from adverse environmental concerns, or with paragraph 130(f) of the Framework which seeks a high standard of amenity for existing and future users.

## **Conclusion**

18. The front façade and awnings are acceptable in planning terms and the extraction system does not generate an unacceptable degree of noise. However, I do not have enough information before me to be certain that the existing extraction system is capable of ensuring that there are no unacceptable odours from a living conditions point of view.
19. Therefore, and when the proposal is considered as a whole, it fails to accord with the development plan for the area. There are no material planning considerations which indicate that planning permission should be approved for a development proposal which, as a whole, fails to demonstrate accordance with the development plan for the area. Therefore, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Steven Hartley*

INSPECTOR