



Appeal Decision

Site visit made on 13 September 2022

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2022

Appeal Ref: APP/J1535/W/21/3283181

13-17 High Beech Road, Loughton IG10 4BN

- 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 Mr R Rains of London and City Property Investments Limited against the decision of Epping Forest District Council.
 - The application Ref EPF/0418/21, dated 16 February 2021, was refused by notice dated 14 July 2021.
 - The development proposed is erection of a third floor to provide two flats.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a third floor to provide two flats at 13-17 High Beech Road, Loughton IG10 4BN in accordance with the terms of the application, Ref EPF/0418/21, dated 16 February 2021, subject to the conditions in the schedule below.

Background and Preliminary Matters

2. The appeal site received prior approval for the change of use from offices to residential flats on 19 August 2020¹. Approval was also granted for the conversion of the second floor from office use to flats in May 2013².
3. The appellant has submitted a Unilateral Undertaking with the appeal, signed 28 October 2021 (the UU). I have taken this into account in my assessment of the appeal.
4. The appellant has also provided additional drawings with the appeal, which include window details and long sections showing the proposal in a wider context. As these drawings do not amend the proposal, and provide additional clarity, I have included these drawings in my consideration of the appeal.
5. The Epping Forest Local Plan Submission Version 2017 (the LPSV) is undergoing independent examination. While its policies are at an advanced stage, I have little evidence of how far away those policies are from adoption or what form they make take post-examination. I have in any case determined the appeal having regard to the adopted development plan at the time.

Main Issue

6. The main issue is the effect of the proposal on the outlook experienced by occupants of nearby properties, including those on Smarts Lane.

¹ EPF/1396/20

² EPF/2383/13

Reasons

7. The appeal site contains a three storey office building located within a predominately residential area close to Loughton Town Centre. The building has many windows in its front and rear elevations which give views towards the residential properties behind on Smarts Lane and properties opposite on High Beech Road.
8. Smarts Lane runs largely parallel to High Beech Road and comprises residential properties of varying age and design. Those properties immediately behind the appeal site are two storey terraces with gardens extending towards the appeal site. A vehicular access exists between nos.18 and 18A Smarts Lane which gives access to the car park at the back of the appeal site as well as to two detached garages, which provide some screening to the rear gardens.
9. The proposed development would inevitably be visible from the nearby properties. However, the proposal would be set back behind new parapets, and would be of a height and design that it would not appear over-bearing or visually dominant in the views from those properties. By reason of its set back and distance from neighbouring properties, neither would it create an unacceptable increase in the sense of enclosure experienced by neighbouring occupants.
10. There is currently a degree of mutual overlooking between the appeal site and the properties on both Smarts Lane and High Beech Road and the new windows of the proposal would be set back from the existing elevations and behind a solid parapet. The new windows and front terraces would have the same direction of outlook as the existing windows below them, and a similar direction of outlook to those windows on the neighbouring properties. In addition, based on the evidence, a distance of between 23 and 27 metres would exist between the development and the nearest properties on Smarts Lane, and over 20 metres would exist to the properties opposite on High Beech Road. These distances would be adequate to protect privacy. Given these site specific circumstances, the proposal would not cause a significant increase in overlooking beyond the existing situation.
11. Based on the evidence, given the distance of the proposal from the properties opposite on High Beech Road, together with the set back of the additional storey from the main elevations, any impact on sunlight and daylight received by the nearby properties is unlikely to be significant nor cause harm to the overall living conditions of those occupants. I do not have substantive evidence to the contrary.
12. For these reasons the development would not cause harm to the visual amenity of nearby properties and would comply with Policy DBE9 of the Epping Forest District Local Plan and Alterations 1998, which relates to protection of the amenity of neighbouring properties. It would also comply with Policy DM9 of the LPSV, which relates to high quality design, but which also requires consideration of privacy and amenity of a development's neighbours. The development would also comply with the design objectives of the National Planning Policy Framework (the Framework).

Epping Forest Special Area of Conservation

13. The appeal site lies within the zone of influence for the Epping Forest Special Area of Conservation (EFSAC). Accordingly, the requirements of the Conservation of Habitats and Species Regulations 2017 apply (the Regulations), and require that the competent authority must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the EFSAC.
14. The appeal would entail the creation of two additional residential units, increasing the local population in the area. Accordingly, and taking a precautionary approach, the proposal would result in an increase in recreational pressure on the EFSAC and have a negative effect on air pollution arising from traffic travelling through it, which would lead to a likely significant adverse effect on the integrity of the SAC.
15. Due to this effect, the Regulations place a duty on the competent authority to make an appropriate assessment of the implications of the proposal on the site's conservation objectives. In this respect, the Council seek financial contributions to mitigate the proposal's impacts, in accordance with its Interim Approach to Managing Recreational Pressures on the SAC, and the Interim Air Pollution Mitigation Strategy. I am satisfied that such an approach would make appropriate mitigation for the harm identified.
16. While I do not have evidence before me as to how the extent of the financial contributions has been calculated, I note the figures have been agreed between the main parties and this is not a matter which is in dispute. Overall, I am satisfied that the provisions in the UU would provide for the delivery of suitable mitigation that would address the level of harm likely to be caused by the development. In this respect, the obligations in the UU relating to the Air Pollution Contribution and the Recreation Contribution are compliant with Regulation 122 of the CIL Regulations and consequently the development would not result in a significant harmful effect on the integrity of the SAC.
17. The UU also secures a fee to be paid to the Council for the monitoring of compliance with the deed. While I agree such monitoring may be necessary, I do not have evidence before me to suggest that the amount of the monitoring fee is fairly and reasonably related in scale and kind to the development. As such the monitoring fee does not meet the tests for an obligation given in the CIL Regulations and the Framework and it would not be lawful to take it into account as a reason for granting planning permission.

Other Matters

18. The Council acknowledge a shortfall in housing land supply in the District. As the proposal would provide two new homes, the provisions of paragraph 11 of the Framework are relevant. As the development accords with an up-to-date development plan, the presumption in favour of sustainable development applies, and this adds further weight in favour of the development.
19. With regard to local parking pressures, the site is in a sustainable location with good accessibility to services and facilities including public transport. Conditions can also be used to encourage future occupiers to use sustainable means of transport. Taken together, and in light of the consultation response from the Highways Authority, the development proposed would not cause unacceptable harm to highway safety.

20. The development would rise above the heights of other buildings on this part of High Beech Road. However, as the building heights and roof forms on the street and across the wider area are varied, and as the additional storey would be set back from all elevations, it would not cause harm to the character and appearance of the area. Concerns relating to any combustible attributes of the proposed cladding are a matter for building regulations.
21. The appeal scheme would not trigger a requirement in planning policy for an affordable housing contribution. Planning Practice Guidance (PPG) states that impacts on property values could not be a material planning consideration.

Conditions

22. The Council has provided a list of suggested conditions that it considers would be appropriate. I have considered these in light of the PPG. For clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording.
23. In addition to the standard time limit condition, it is necessary to ensure that the development is carried out in accordance with the approved plans for the reason of certainty.
24. To protect the privacy of the neighbouring occupiers, a condition is necessary to ensure that those windows in the side elevations are obscure glazed. A condition to secure and maintain the privacy screens is also necessary for privacy reasons.
25. As the non-habitable room windows in the rear elevation would have the same relationship to the neighbouring properties as the other windows in this elevation which have been found to be acceptable, it would not meet the test of necessity to include them in this requirement.
26. To protect living conditions during the construction process, a condition is necessary to restrict the construction hours. To encourage use of sustainable means of transport, conditions securing delivery of cycle storage and distribution of travel information packs are also necessary.
27. As the details of external materials are adequately annotated on the supporting plans, it is not necessary to condition them further. As the appeal site is in a well connected location and relates to works above an existing building, I do not consider it necessary to condition details to be provided of broadband connectivity. The delivery of electric vehicle charging points now falls under the remit of building regulations and a condition in this respect is not necessary.

Conclusion

1. For the above reasons, having taken account of the development plan as a whole, the approach in the Framework, along with all other relevant material considerations, the appeal is allowed.

C Shearing

INSPECTOR

SCHEDULE OF CONDITIONS

- 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: 572-21-01, 572-21-02, 572-21-03, 572-21-04, 572-21-05, 572-21-06, 572/21-07 ('Proposed Site Sections CC & DD'), 572/21-07 (Proposed Ground Floor Site Plan'), 572/21-08, 572/21-D01.
- 3) The windows in the north and south side elevations of the development shall be obscure glazed and shall be non-opening unless the opening parts of the window are more than 1.7m above the internal floor level of the room which they serve. Those windows shall be maintained in accordance with these requirements.
- 4) No deliveries, external running of plant and equipment or demolition and construction works, other than internal works not audible outside the site boundary, shall take place on the site other than between the hours of 07:30 to 18:00 on Monday to Friday and 08:00 to 13:00 on Saturday and not at all on Sundays, Public or Bank Holidays without the prior written permission of the Local Planning Authority.
- 5) Prior to first use of the front terrace, the privacy screens shall be installed in full accordance with the details shown on drawings 572-21-05 and 572-21-06. These shall be maintained at all times.
- 6) Prior to the first occupation of the development the cycle parking facilities shown on drawing 572-21-04 shall be provided and shall remain available for use at all times.
- 7) Prior to the first occupation of the development, a Residential Travel Information Pack shall be provided to each new dwelling free of charge. This shall include six one day travel vouchers for use with the relevant local public transport operator.