

Report Item No: 5

APPLICATION No:	EPF/1949/09
SITE ADDRESS:	276 High Road Loughton Essex IG10 1RB
PARISH:	Loughton
WARD:	Loughton St Marys
APPLICANT:	Domino's Pizza Group Ltd
DESCRIPTION OF PROPOSAL:	Change of use to A5 (Hot food takeaways) and single storey rear extension.
RECOMMENDED DECISION:	Grant Permission (With Conditions)

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 Details of the types and colours of the external finishes of the extension hereby approved shall be submitted for approval by the Local Planning Authority in writing prior to the commencement of the development, and the development shall be implemented in accordance with such approved details.
- 3 The use hereby permitted shall not be open to customers outside the hours of 0900 to 2300 Monday to Friday and 1000 to 2300 on Saturdays and Sundays.
- 4 No occupation of the premises by the first or any subsequent A5 occupier shall take place prior to the submission and approval in writing by the Local Planning Authority of an appropriate mechanical extraction system designed to suppress and disperse cooking and food preparation fumes.

Prior to the commencement of the use, the system shall be installed strictly in accordance with the approved details and shall thereafter be operated and maintained in full working order at all times in accordance with the manufacturers instructions. The system shall be used at all times that the premises are open for business.
- 5 No development (comprising both the extension and the change of use hereby approved) shall take place until detailed drawings that show adequate provision for foul drainage from the building have been submitted to and approved in writing by the Local Planning Authority. The use hereby approved shall not commence until the approved drainage system has been installed.

Drains serving the kitchen within the building shall be fitted with a grease separator or other means of removal to a specification that is previously approved in writing by the Local Planning Authority. The approved means of grease removal shall be installed prior to the commencement of the use hereby approved. It shall thereafter be permanently retained and maintained at all times when the premises are in use.

- 6 No development (comprising both the extension and the change of use hereby approved) shall take place until a scheme for the adequate storage of refuse from this use has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out prior to the commencement of the use hereby approved and thereafter retained at all times.
- 7 All demolition, construction and refitting works associated with this permission shall be undertaken within the hours of 0800 to 1800 on Mondays to Fridays and 0900 to 1300 on Saturdays. No work of this kind shall take place on Sundays or Bank Holidays without the prior written approval of the Local Planning Authority.

This application is before this Committee since the recommendation differs from the views of the local council (Pursuant to Section P4, Schedule A (g) of the Council's Delegated Functions).

Description of Proposal:

This application seeks planning permission for the change of use of the premises to A5 (takeaway) and for the addition of a ground floor extension to the rear of the unit. The proposed extension would fill the area of the application site located to the rear of the unit. It would be 3.1 metres in depth and would sit between the similar extensions to the units on either side. Following an amendment to the originally submitted scheme, air conditioning plant is proposed to be located on the roof of the proposed extension.

Description of Site:

The subject site is within a three storey block with ground floor access into a single commercial unit located to the western side of a small parade situated off the High Road. Neighbouring commercial units are predominantly A3 and A5 use with the only open shop unit trading as an optician. The local plans map identifies the entire parade within the town centre location; however, the parade does not fall within the key shopping frontage. The application site includes an en-bloc garage located to the rear of the main application site and within the applicant's control.

The two storeys above the commercial units accommodate residential maisonettes/flats. Neighbouring units have been extended to the rear. The garden area was heavily parked at the time of the site visit. The land around the garage is a private parking area with a clamping system in place. To the front of the application site there is a lay-by which provides for short stay parking. This is generally heavily used.

Relevant History:

EPF/0564/09. Change of use from Class A2 (Financial and Professional Services) to Class A5 (Hot Food Takeaway) and the installation of 1 no. extract duct to the rear ground floor elevation. Refused 22/05/09. Allowed at appeal 11/11/09.

Policies Applied:

East of England Plan

ENV7 – Quality in the Built Environment

Adopted Local Plan and Alterations

TC1 – Town centre hierarchy

TC3 – Town centre

ST4 – Road safety

ST6 – Vehicle Parking

RP5A – Adverse Environmental Impacts

DBE1 – Design of new buildings

DBE2 – Effect on neighbouring properties

DBE9 – Loss of amenity

I1A – Planning Obligations

Summary of Representations:

This report has been prepared in advance of the closure of the public consultation on 1st December 2009. Any responses received in the interim will be verbally reported at the Committee Meeting.

Notification of this planning application has been sent to 3 neighbouring properties and to Loughton Town Council. A site notice has also been displayed at the property.

LOUGHTON TOWN COUNCIL: Conditional no objection. In light of the Inspector's decision to allow the appeal and grant planning permission for the change of use from Class A2 to A5, the Committee saw no point in objecting on principle. However, it would wish to object unless the District Council was minded to impose the following planning conditions which included: the containment and control of refuse; facilities for the disposal of litter outside the shop; cleaning of the premises and its curtilage; installation of proper fume control equipment. Since the shop would be an operating base for delivery vehicles, the Committee asked the LPA to impose a Section 106 Agreement of around £50,000 for town centre enhancement towards improving vehicle parking near the premises.

PAPA JOHN'S PIZZA, 258 HIGH ROAD: Objection. There is already a sufficient choice of takeaways. If this proposal goes ahead it will have significant detrimental effects on my survival.

Issues and Considerations:

The acceptability of the A5 use of the premises has been agreed by the Planning Inspectorate. The planning permission granted was subject to planning conditions relating to hours of operation, extraction and ventilation equipment, foul drainage, refuse storage and hours for the refitting of the unit. Subject to these conditions being imposed, it is considered that the use would continue to be acceptable.

Accordingly, the main issues to be considered are the impacts of the proposed extension on the amenities of neighbouring residents and on the character and appearance of the area.

Neighbouring Amenity

The proposed extension would be located adjacent to extensions to neighbouring commercial premises. Accordingly it is not considered that there would be any material loss of amenity to the occupiers of the residential properties above arising from the building itself.

The application also proposes the addition of air conditioning condenser units to the roof of the proposed extension. The proposed units would generate some noise. However, this has been considered by Environmental Health Officers, who have confirmed that neighbouring premises have similar equipment in similar locations and that no noise nuisance complaints have arisen as a result.

Design and Appearance

The proposed extension and air conditioning plant would have a functional, utilitarian appearance. However, it would only be visible from within the service yard/garage court and bearing in mind the quality and appearance of surrounding buildings and plant equipment, it is not considered that the proposed development would be harmful to the character and appearance of the area.

Other Matters

The area of land on which the extension would be situated is where it was previously assumed the refuse storage area would be provided. However, the applicant suggests that the garage could be used for this purpose and has included it within the application site to ensure that this may be controlled by planning condition. This is considered to be acceptable.

Loughton Town Council considers that further planning conditions/planning obligations should be used, beyond those imposed by the Planning Inspector. When considering the acceptability of the suggested conditions, in accordance with Government advice set out in Circular 11/95, substantial weighting should be applied to the recent appeal decision when considering whether the planning conditions would meet the tests of that Circular, in that they would be necessary; relevant to planning; relevant to the development permitted; enforceable; precise; and reasonable in all other respects. The additional conditions suggested by the Town Council will be considered in turn.

Facilities for the disposal of litter outside the shop – the application site would be entirely occupied by the building, accordingly there would be no space for the provision of additional litter bins controllable by planning condition. Furthermore, it is not considered that the extension to the rear of the premises would significantly increase the litter generated from the use, accordingly it is not considered that the use of the condition would be reasonable, as no such condition is applied to the recent approval. It is noted that the nearest litter bin to the site is outside Loughton Methodist Church.

Cleaning of the premises and its curtilage – It should be noted that the entire curtilage would be occupied by the building. It is not considered that such a planning condition would be necessary, relevant to planning, relevant to the development permitted or reasonable in all other respects. For these reasons and also due to the subjective nature of such a condition, it is not considered that it would be enforceable.

Section 106 Agreement of around £50,000 for town centre enhancement towards improving vehicle parking near the premises – Legal agreements must be considered in accordance with policy I1A of the local plan, which sets out circumstances in which a planning obligation may be sought. The policy also refers to relevant Government guidance. Government advice is provided in Circular 05/05. The Circular advises that a planning obligation must be:

- (i) relevant to planning;
- (ii) necessary to make the proposed development acceptable in planning terms;
- (iii) directly related to the proposed development;
- (iv) fairly and reasonably related in scale and kind to the proposed development; and
- (v) reasonable in all other respects.

The Circular states “the use of planning obligations must be governed by the fundamental principle that planning permission may not be bought or sold. It is therefore not legitimate for unacceptable development to be permitted because of benefits or inducements offered by a developer which are not necessary to make the development acceptable in planning terms. Similarly, planning obligations should never be used purely as a means of securing for the local community a share in the profits of development, i.e. as a means of securing a "betterment levy".”

It is considered by Officers that the suggested planning obligation would fail to meet tests *ii-v*, as it cannot be considered necessary to make the proposed development acceptable as there is an extant planning permission for a very similar development with no such planning obligation secured. Furthermore it is considered that the sum suggested would be excessive in comparison with the potential harm arising from vehicle movements associated with the takeaway use of a unit of this size.

Conclusion

In light of the above appraisal, it is considered that the proposed use would be acceptable, bearing in mind the recent decision by the Planning Inspectorate. Furthermore, it is not considered that the proposed extension to the building would cause any material harm that would justify the withholding of planning permission. Accordingly, it is recommended that planning permission be granted.



Epping Forest District Council

Area Planning Sub-Committee South



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Agenda Item Number:	5
Application Number:	EPF/1949/09
Site Name:	276 High Road, Loughton IG10 1RB
Scale of Plot:	1/1250

Report Item No: 6

APPLICATION No:	EPF/2115/09
SITE ADDRESS:	30 Chigwell Park Drive Chigwell Essex IG7 5BD
PARISH:	Chigwell
WARD:	Chigwell Village
APPLICANT:	Mr Peter Spratt
DESCRIPTION OF PROPOSAL:	Proposed double storey side extension, single storey rear extension and loft conversion with two rear dormer windows. (Revised application to EPF/1319/09, which was withdrawn.)
RECOMMENDED DECISION:	Grant Permission (With Conditions)

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 Materials to be used for the external finishes of the proposed extension, shall match those of the existing building.
- 3 The first floor flank wall of the side extension hereby approved shall be set a minimum distance of 1 metre from the site boundary with 32 Chigwell park Drive.
- 4 Notwithstanding the details shown on the approved plans, the dormer windows hereby approved shall be constructed in accordance with the following limitations on their dimensions and siting and thereafter be retained as such:
 - i) The dormer windows shall be separated by a minimum distance of 1 metre as measured between their cheeks.
 - ii) No part of the dormer windows shall exceed the height of the highest part of the main roof of the house.
 - iii) The eastern dormer (that nearest 28 Chigwell Park Drive) shall be set a minimum distance of 1 metre from the site boundary with 28 Chigwell Park Drive.
 - iv) The western dormer (that nearest 32 Chigwell Park Drive) shall be set a minimum distance of 200 millimetres from the adjacent hip of the main roof of the house.

This application is before this Committee since the recommendation differs from the views of the local council (pursuant to section P4, schedule A (g) of the Councils delegated functions).

Description of Proposal:

Double storey side extension, single storey rear extension, and loft conversion with two dormer windows. The two storey side addition would incorporate an integral garage.

Description of Site:

A two storey semi detached house in a road of similar dwellings. Many properties in this road and nearby roads have been extended by two stories at the side.

Relevant History:

EPF/1319/09 – Application withdrawn for the same description of development as now applied for – see below.

Policies Applied:

DBE9 – Loss of amenity
DBE10 - Residential extensions

Summary of Representations:

CHIGWELL PARISH COUNCIL – object because the rear extension will have an adverse impact on neighbouring properties.

NEIGHBOURS: 8 neighbours consulted.

This report was prepared in advance of the expiry of the 21 day consultation period which continues until 3 December 2009. No responses received within the first 2 weeks of the consultation period. Any subsequent replies received up to the day of the Sub-Committee meeting will be reported orally.

Issues and Considerations:

The application submitted earlier this year (EPF/1319/09) was withdrawn because officers advised the agent that without certain changes the scheme was likely to be refused planning permission. This revised application now incorporates these improvements.

Firstly, the first floor (along with the ground floor) is now set in by 1m. from the side boundary with no. 32 as opposed to the previous 0.75m. Consequently an appropriate visual break, required by policy DBE10, will be retained between the two properties, and this is particularly relevant because no. 32 has already been extended by two stories at the side. An appropriate planning condition on any consent granted will provide an additional mechanism for enforcing the 1m set in.

Secondly, the new first floor front bedroom window has been changed in terms of its design and size so that it does not dominate the first floor front appearance of the house.

Lastly, the width of pitched roof over the ground floor rear extension has been reduced by 1m. at either side – i.e. this extension will have a flat roof section at either end. This will reduce the impact of this extension on the light and outlook of residents in the physically adjoining semi at no.28. As viewed from no.28 the extension will now be some 2.8m high. Furthermore this extension will project outwards by 3m. – an amount considered acceptable in policy DBE10 . Consequently, whilst this extension will have some impact this impact will not be significant, and the Parish Council's objection in this regard is not supported.

Two rear dormer windows with ridge roofs over, are proposed. In design terms these are acceptable, and do not over dominate the roof slope. Unfortunately the submitted drawings are not consistent in the way the rear dormers are shown. The rear elevation drawing shows the western dormer (that nearest 32 Chigwell Park Drive) set 3.6m from the edge of the roof at the western elevation of the side extension and a distance of 600mm separating the cheeks of the two dormer windows while the proposed second floor plan shows those dimensions as 3.4m and 1.25m respectively. The drawings are consistent about the width of the dormers (2.1m) and the distance of the eastern dormer from the party wall with 28 Chigwell Park Drive. At the time of writing there was insufficient time to secure revised plans before the deadline for the completion of this report but the inconsistencies can be resolved by the imposition of a planning condition controlling key dimensions relating to the siting of the dormer windows. Compliance with such a condition is likely to result in the dormers having slightly less width. Amended plans dealing with the inconsistencies will be sought during the lead in period to the Sub-Committee meeting.

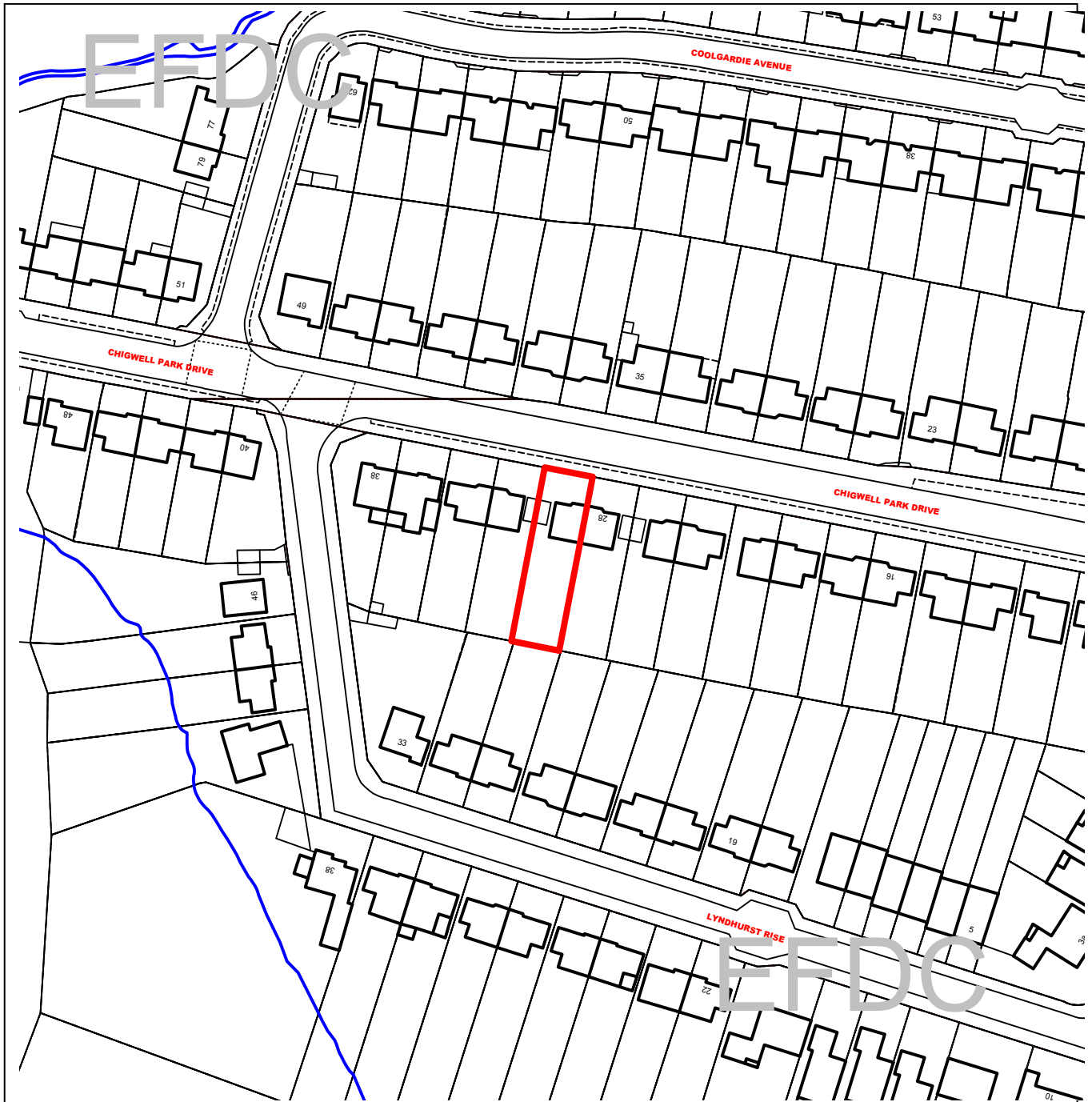
Conclusion:

It is acknowledged that the application, as a whole, proposes a sizeable addition to this property. However, as revised the proposal is now acceptable, and does comply with relevant local plan policies. A conditional approval is therefore recommended.



Epping Forest District Council

Area Planning Sub-Committee South



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Scale of Plot:	1/1250