
Appeal Decision

Site visit made on 29 November 2022

by K E Down MA(Oxon) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th December 2022

Appeal Ref: APP/Z1510/D/22/3303068

Sydney Villa, 124 Swan Street, Sible Hedingham, Essex, CO9 3HP

- 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 James McClenaghan against the decision of Braintree District Council.
 - The application Ref 22/01343/HH, dated 11 May 2022, was refused by notice dated 6 July 2022.
 - The development proposed is a change of use from outbuilding to annex.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from outbuilding to annex at Sydney Villa, 124 Swan Street, Sible Hedingham, Essex, CO9 3HP in accordance with the terms of the application, Ref 22/01343/HH, dated 11 May 2022, and the plans submitted with it, subject to the following condition:
 - 1) The annex hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Sydney Villa, 124 Swan Street.

Main Issue

2. There is one main issue which is whether the proposed annex would be suitably located and appropriate having regard to its siting, scale and use.

Procedural Matter

3. The Council adopted the Braintree District Local Plan 2013-2033 (LP) on 25 July 2022. The adopted policies referred to in the refusal notice have therefore been superceded. Draft policies referred to in the refusal notice have been re-numbered. The relevant policies in the context of this appeal are now therefore Policies LPP 36 and LPP 52 of the LP.

Reasons

4. The appeal site is located on the busy A1017 in the centre of Sible Hedingham. It comprises a large detached two storey property with a small garden to the front and a driveway to the side. A range of possibly original outbuildings stands on the opposite side of the driveway. To the rear, the original large plot appears
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to have been divided but the host dwelling retains turning and parking areas for several vehicles.

5. The appeal proposal involves internal alterations to part of the range of outbuildings, previously used for storage, to make it suitable as habitable accommodation to be used as a residential annex. The other half of the outbuildings comprise a home office and store. I saw at my site visit that the proposed development has been carried out. The proposed floorplans show a simple layout with a living room, modest kitchen and shower room on the ground floor and two bedrooms with restricted headroom occupying about half the footprint at first floor level. No external works are proposed.
6. The Council contends that the proposal would be tantamount to a new dwelling and not clearly ancillary to the host dwelling owing to the level of facilities proposed and lack of sufficient justification for its use. In relation to the Council's contention that the proposal is effectively a separate dwelling, the development that is before me and the subject of this appeal is for a proposed annex. There is no proposal before me for a separate dwelling and I have, therefore, determined the appeal on this basis.
7. Judging by the evidence, including my observations on site, the proposed building would, physically, constitute a residential annex in that: it would be accommodated within an existing outbuilding to the host dwelling; it would be in the same ownership as the host property; the water and electricity supplies are shared with the main dwelling; it would share the existing pedestrian and vehicular access with the host dwelling and parking would be to the rear of the site, beyond an existing gate; the proposed annex would be well related to the host property, being separated only by the driveway, would have a strong visual link with it and is clearly subservient.
8. With regard to the alleged excessive level of facilities in the annex, this appears to be based on floorspace and the fact that a kitchen, including an oven, is shown on the submitted plans. However, long standing case law and in particular *Uttlesford D.C. v SSE & RJ White 1992* established that even if the accommodation provided facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the host dwelling. With regard to floorspace I do not consider the accommodation excessive because, whilst capable of being used for day to day living, it would remain a small-scale unit and significantly smaller than and subservient to the host dwelling. In terms of reliance on the host dwelling, the evidence sets out that the annex is fed water and electricity supplies from the host dwelling, establishing a clear dependence. The annex is therefore, as a matter of fact, ancillary to the host dwelling.
9. The annex is currently occupied by a tenant. It is not clear from the evidence whether the tenant relies on facilities in the main house, such as laundry facilities. The current proven functional link is therefore limited. Nevertheless, the building is clearly capable of use as an annex and any planning permission runs with the land, irrespective of the circumstances of the intended occupier(s). The Council's evidence states that a family member of the appellant may in future reside there. The appellant states in evidence that, for financial reasons, it is his intention to sell the entire property. The current occupation is not, therefore, determinative. Moreover, the use of the building as

an annex (as applied for) could be secured through a suitable planning condition. If it was then occupied in breach of such a condition, enforcement action could be taken to secure compliance.

10. It is concluded on the main issue that the siting, scale and use of the proposed annex would be acceptable and that it would not involve the creation of a separate dwelling. In consequence, there would be no conflict with LP Policies LPP 36 and LPP 52. Taken together and amongst other things these expect residential outbuildings, including annexes, not to result in an overdevelopment of the plot, to be subordinate to the original dwelling in terms of bulk, height and position and to share a physical and functional relationship with the host dwelling such that they are not self-contained.
11. Turning to conditions, the development has already been carried out and so neither a commencement condition nor conditions requiring the development to be carried out in accordance with the approved plans or in matching materials are necessary. However, as set out in paragraph 8 above, the appeal proposal is for an annex and in order to ensure it is used solely as accommodation ancillary to the main dwelling a condition controlling this is necessary and reasonable. I shall impose such a condition.
12. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be allowed.

KE Down
INSPECTOR