



Appeal Decision

Site visit made on 11 April 2023

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 April 2023

Appeal Ref: APP/J1535/W/22/3297029
18A Sylvan Way, Chigwell, Essex IG7 4BQ

- 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 Berg against the decision of Epping Forest District Council.
 - The application Ref EPF/2118/21, dated 30 July 2021, was refused by notice dated 31 January 2022.
 - The development proposed is the change of use of the first floor above garage to a one bedroom flat and conversion of garage into a playroom.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council does not object to the principle of the conversion of the first floor to living accommodation, the conversion of part of the ground floor to a playroom or the external alterations of the scheme. From the information before me, and my observations on site I have no reason to conclude differently.
3. An updated site location plan was submitted with the appeal. This has been amended to remove the incorrect inclusion of a parcel of land falling within 16 Sylvan Way. Whilst this plan did not form part of the original planning application, and an appeal should not be used to evolve a scheme, this forms a very minor correction and does not affect the substantive issues of the appeal. I have therefore taken it into account.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the living conditions of the occupants of 18 Sylvan Way, with particular regard to privacy; and
 - whether the future occupants of the proposed dwelling would have a satisfactory standard of accommodation, with particular regard to privacy.

Reasons

Living conditions

5. The appeal site consists of a two-storey annex building, positioned adjacent to 18 Sylvan Way. The front elevation of the annex accommodates three garage doors. A separate entrance door exists to the side elevation, facing No 18.
6. Existing first floor windows are positioned in the front and rear elevations of the annex. No new window installations are proposed to the side elevations. As such, there would be no loss of privacy to the occupants of No 18 from the proposed habitable rooms. I also acknowledge that the main entrance door and two ground floor windows along the existing passageway at No 18 are fitted with obscured glazing.
7. However, the proposed arrangement is atypical and future residents of the annex, visitors and delivery personnel would all turn into the driveway and front garden area of No 18 to access the annex. They would be able to obtain uninterrupted views at close range into the unobscured ground floor window of No 18 as they made their way to the entrance of the annex, resulting in a harmful loss of privacy to the occupiers of No 18. Even where windows along the passageway are fitted with obscured glazing, and irrespective of the use of the rooms they serve, residents of No 18 would be aware of the comings and goings of No 18A, at an uncomfortable proximity.
8. I note the appellant's comment that Nos 18 and 18A both form part of the same title and are both owned by the appellant. However, there is no substantive evidence before me that demonstrates that this would always be the case, or that no part of the site would be accommodated by other households or occupants in the future.
9. I also note the appellant's reference to the first floor having been used for residential purposes previously. However, there is also no substantive evidence before me to clearly demonstrate that this was the case or the circumstances of that arrangement. Other ancillary uses are also cited. Nevertheless, I must assess the appeal scheme in the terms it has been made, i.e. 'the change of use of the first floor above garage to a one bedroom flat'. As explained above, I have identified harm in that respect.
10. Consequently, I conclude that the proposed development would have a harmful effect on the living conditions of neighbouring occupants at No 18. This would be contrary to the relevant provisions of Policies DBE2 and DBE9 of the Epping Forest District Local Plan (LP) (1998 and Alterations 2006) and Policy DM9 of the Epping Forest District Local Plan Submission Version (SV) (2017). These policies, amongst other objectives, seek to ensure development proposals respect the amenity of occupiers of neighbouring buildings. This is in a similar vein to the objectives of the National Planning Policy Framework (the Framework) insofar as living conditions are concerned.

Standard of accommodation

11. The proposed dwelling would be positioned at first floor level, with windows positioned at an elevated level towards the open land to the rear and the cul-de-sac to the front. The fact that future occupants would need to pass near to No 18 in order to gain access to the proposed property is unusual but would not result in harmful living conditions for those future occupants.

12. In conclusion, the proposed development would provide a satisfactory standard of accommodation for future occupants, in accordance with the relevant provisions of LP Policies DBE2 and DBE9 and SV Policy DM9. These policies, amongst other objectives, seek to ensure development proposals achieve a high standard of accommodation for future occupiers of buildings. This is in a similar vein to the objectives of the Framework insofar as living conditions are concerned.

Other Matters

13. I acknowledge that the proposal, as a whole, would have certain benefits in terms of housing provision, as well as economically, including the bringing about of additional trade to nearby services and facilities once occupied. I also accept that the appellant is committed to achieving high sustainability credentials, including the re-use of an existing building, and this is a clear benefit. However, the public benefits considered as a whole would be limited by reason of the scale and nature of the development. Ultimately, these benefits would not outweigh the harm I have identified.
14. I also note that the proposed development would meet other planning policy requirements including internal space standards and parking provision. However, there is no dispute between the Council and appellant in these respects and they are neutral in my determination of the appeal.
15. In respect of the Epping Forest Special Area for Conservation, I note the appellant's inclusion of a unilateral undertaking in relation to the provision of contributions towards air pollution. Habitats Regulation 63(1) states that a competent authority, before deciding to give any consent must make an appropriate assessment to establish likely effects in terms of protected sites.
16. However, given my reasoning in respect of the effect of the development on living conditions, I do not need to consider this matter further. Even were I to find the proposal acceptable in this respect it would be neutral in my determination of the case and would weigh neither for nor against the proposed development.

Conclusion

17. For the reasons given above, having had regard to the development plan as a whole and to all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price

INSPECTOR