



Appeal Decision

Site visit made on 14 December 2023

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th January 2024

Appeal Ref: APP/B5480/W/23/3323725

Rear of 19 Suttons Lane, Hornchurch RM12 6RD

- 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 Sunil Sehdev against the decision of the Council of the London Borough of Havering.
 - The application Ref P1929.22, dated 11 August 2022, was refused by notice dated 20 February 2023.
 - The development proposed is erection of a building.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. No.19 Suttons Lane is currently occupied by a shop at ground floor level with a residential flat (No.19a) above. Immediately to the rear of the shop there are two single storey residential dwellings (Nos.19b and 19c). The evidence before me confirms that until recently, Nos.19b and 19c formed part of the retail and storage space to the shop at No.19. As the space was vacant and no longer required for commercial purposes, it benefitted from permitted development rights enabling its conversion to residential use.
3. A previous planning application, for the same building as that currently proposed, was refused by the Council in June 2022 and was dismissed at appeal in April 2023. The development was previously refused and dismissed due to the harm its use would cause to the living conditions of neighbouring occupiers at Nos. 19b and 19c Suttons Lane, with particular regard to privacy, noise and disturbance. In relation to the previous scheme, it was proposed to use the building for commercial purposes falling within Use Class E. In the scheme currently before me, the proposed building would provide a mixture of ancillary commercial and domestic storage space for Nos.19, 19b and 19c Suttons Lane.
4. The main issue is therefore the effect of the development on the living conditions of residential occupiers of Nos.19b and 19c Suttons Lane, with particular regard to privacy, noise and disturbance.

Reasons

5. The appeal site comprises an overgrown and disused garden area that lies immediately beyond Nos.19b and 19c. The only access to the site is via a narrow pedestrian path that runs along the northern boundary of Nos. 19, 19b and 19c Suttons Lane. There is a lockable gate between the rear of the shop

and the access to the two new dwellings, and at the time of my visit, a large fence panel was propped up across the end of the path, restricting access to the disused garden area.

6. The proposed building would contain three storage rooms and a covered cycle and bin storage area. Two of the rooms, measuring 8.5 sqm each, would provide ancillary domestic storage space for the occupiers of Nos.19b and 19c. These two small storage areas, together with the cycle and bin store, would be accessed by the occupiers of Nos.19b and 19c only. On their own, they would be commensurate with the scale of the dwellings they would serve and similar to the scale of the ancillary outbuildings to the rear of other nearby surrounding properties. Given the close relationship and shared access that already exists between Nos. 19b and 19c, this domestic part of the proposal would not cause any significant harm to the living conditions of occupiers of these dwellings.
7. However, the larger third room, measuring 19 sqm, and the corridor to it, would be used for storage in connection with the retail unit at No.19. This commercial storage area could be frequently used and accessed throughout the day, including at weekends. The gated and restricted narrow pedestrian access path, which directly passes the bedroom and living room windows of the new dwellings, is less than a metre wide where it passes the living room windows. As such it is unsuitable for providing access and deliveries to a commercial storage building. As with the previous proposal it remains the case that employees of the retail unit and those delivering goods to be stored on the site, would need to walk directly past the living and bedroom windows of Nos.19b and 19c, resulting in an unacceptable loss of privacy and increased noise and disturbance to the occupiers of these properties from the associated comings and goings.
8. I acknowledge that the Council's Public Protection Team did not object to the application, but that is not unusual on a development of this scale, which would not have far reaching consequences and did not require specialist input on any technical evidence.
9. A condition to control the hours of use and hours of deliveries to the commercial storage unit would be difficult to enforce and would not address the issue of employees and delivery persons disturbing occupiers of the adjacent dwellings throughout the day. Moreover, it would be unreasonable to restrict access to the storage space at weekends when retail premises are likely to be busiest.
10. Whilst other nearby commercial premises may have ancillary outbuildings to the rear, from the evidence before me, these are smaller scale detached buildings that are not, to my knowledge, accessed via a narrow footway that runs directly in front of bedroom and living room windows.
11. I therefore conclude that the development would result in unacceptable harm to the living conditions of occupiers of 19b and 19c Suttons Lane, with regard to privacy, noise and disturbance. As such, it would be contrary to Policy D14 of The London Plan and Policy 34 of the Havering Local Plan 2016 – 2031 (the local plan), which seek to ensure new development avoids adverse noise impacts on health and quality of life and would not unduly impact upon amenity. It would also conflict with paragraphs 135 and 191 of the National Planning Policy Framework (December 2023), which require decisions to ensure

new development creates places with a high standard of amenity for existing and future users and that is appropriate for its location, taking into account the likely effect of noise on living conditions.

12. As Policy 7 of the local plan relates to the design and amenity of new residential development, I do not consider it to be relevant to the proposal before me.

Other Matters

13. The appellant states that the site could be used for outdoor storage associated with the shop and/or as an outdoor seating area by employees. Whilst I do not dispute this, it clearly does not occur at the present time and the presence of a building connected to the use of the shop would increase the likelihood of persons other than the residents of 19b and 19c using the path in front of their windows. As such, I afford this potential future occurrence very limited weight.
14. Any economic benefits of the proposal would be minimal and would not outweigh the harm that I have identified.

Conclusion

15. For the reasons given above I conclude that the appeal should be dismissed.

R Bartlett

INSPECTOR