



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

EFDC Householder & Other Minor Applications Check List

Application Details & Constraints					
Case Ref:	EPF/2266/24	PL No:			
Site Address:	5, Coolgardie Avenue, Chigwell, IG7 5AU				
Proposal:	Two storey side extension with corresponding hipped roof extension and single storey bayed extension to front.				
Green Belt	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	TPO	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Conservation Area	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Heritage Asset (Listed)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Flood Zone	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Enforcement	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Representations					
Town/Parish Council Comments, if any:					
Objection <input type="checkbox"/>	No Objection <input type="checkbox"/>	Comment <input type="checkbox"/>	None Received <input checked="" type="checkbox"/>		
Neighbour Responses, if any:		Comments from no.8 Coolgardie Avenue, summarised as: - The plans are not viewable.			

Planning Considerations

EFDC Householder & Other Minor Applications Check List

Character and Appearance:

It is noted that a Certificate of Lawfulness has been granted for hip-to-gable end extensions and rooflights to the front and rear roofslope under reference EPF/0243/24. It is noted that that pre-application advice was sought for a similar proposal under reference PRE/0264/24, however this scheme varies in terms of the two-storey side extension and the rear dormers.

The two-storey side extension would project from the north flank, with a pitched roof, by the boundary. The single storey front extension would project from the principal elevation, from the proposed two storey side extension, with a pitched roof. The rear dormer would be situated centrally, set back from the eaves, set down from the ridge, and set in from the sides. The external appearance would comprise windows to the front flank at ground level, at first floor level to the front and rear, to the rear dormer, and a door to the rear flank of the two-storey side extension.

The subject dwellinghouse is situated on a prominent position on the street where it is viewable from vantage points. The two-storey side extension, with its elongated pitch and gable end pitch to the opposite side of the dwellinghouse, would appear odd replacing the existing proportionate roof form of the subject dwelling where it would conflict with neighbouring dwellings in terms of appearance. The dwellinghouse, due to its existing situ as a detached dwelling forming as an end to the street by the north boundary, along with its neighbouring detached dwellings, sets the character of the street scene. The two-storey side extension, along with the single storey front extension would bring the subject dwelling closer to the highway and appear dominant to the street scene. The rear dormer would appear as an incongruous addition where it would be viewable from the east, from the Public Right of Way, as it would incorporate full height windows that appear disproportionate to the existing fenestration of the dwellinghouse. The overall scale and mass of the proposal is considered unacceptable where it would appear at odd with the original design of the dwelling, exacerbated by the bulky appearance, and its relationship with neighbouring dwellings.

The proposed development, due to its design, siting, and scale, is considered to be inappropriate to the site and the surrounding area. The proposal is considered to be poor design and unsympathetic to character of the local area; it fails to comply with Policy DM9 of Epping Forest District Local Plan 2011-2033.

Acceptable	<input type="checkbox"/>	Unacceptable	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
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EFDC Householder & Other Minor Applications Check List

Neighbouring Amenities:

Due to the full height windows of the rear dormer, in context of the existing situ of the dwellinghouse and its relationship with the surrounding area, it is considered to result in adverse impact to the amenity of the occupiers of the host dwelling and that of neighbouring sites, as well as local residents. The full height windows of the rear dormer windows would create visual intrusion, where it would be particularly intrusive during dark hours, resulting in adverse living conditions for the occupiers of the host and neighbouring dwellings.

The proposal would not reduce the private amenity space to the rear; it is considered adequate for the occupants and future occupiers.

The proposed development is considered to result in an unacceptable loss of privacy and create visual intrusion, which result in adverse conditions to the amenity of the subject and surrounding dwellings. The proposal fails to comply with Policy DM9 of Epping Forest District Local Plan 2011-2033.

Acceptable	<input type="checkbox"/>	Unacceptable	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
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Green Belt:

Acceptable	<input type="checkbox"/>	Unacceptable	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
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Highway Safety/Parking:

Due to the design, existing layout and parking provisions on site of the proposal, there would be no loss of parking or impact to highway safety. It is therefore in accordance with Policy T1 of Epping Forest District Local Plan 2011-2033.

Acceptable	<input checked="" type="checkbox"/>	Unacceptable	<input type="checkbox"/>	N/A	<input type="checkbox"/>
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Trees and Landscaping:

Acceptable	<input type="checkbox"/>	Unacceptable	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
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Comments on Representations, if any:

The application has been assessed against material planning considerations, as set out in the Officer's Report. The plans were made viewable and additional time was allowed for comments to submitted.

Additional Notes:

Officer Recommendation:	Approve <input type="checkbox"/>	Refuse <input checked="" type="checkbox"/>
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EFDC Householder & Other Minor Applications Check List

Application Details & Constraints

Case Ref:	EPF/1374/24			PL No:	004538
Site Address:	5, Coolgardie Avenue, Chigwell, IG7 5AU				
Proposal:	Insert dormer into existing converted loft				
Green Belt	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	TPO	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Conservation Area	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Heritage Asset (Listed)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Flood Zone	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Enforcement	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

Representations

Town/Parish Council Comments, if any:

Chigwell Parish Council comments: 'No objection although the Council **NOTED** with disappointment the absence of a Refurbishments and Extensions Sustainability Checklist and noted the proposal may not adequately comply with Policy DM9 A (iii) (sustainable design and construction), DM19 (sustainable water) and/or DM20 (the incorporation of low carbon and renewable energy measures) and/or fail to make sufficient contribution to meeting the EFDC objective of net zero by 2030 or 2050.'

Objection <input type="checkbox"/>	No Objection <input checked="" type="checkbox"/>	Comment <input checked="" type="checkbox"/>	None Received <input type="checkbox"/>
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Neighbour Responses, if any: None

Planning Considerations

Character and Appearance:

The application site is a two-storey detached dwellinghouse set on an irregular shaped plot at the junction with New Barn Way. It is located on the east side of the road as an end dwelling in a row of three. Surrounding area is of mixed character using a mix of materials.

Consent is sought for a dormer extension to the rear roof slope with Juliet Balcony. The site is in a prominent corner position lying perpendicular to dwellings on New Barn Way. The submitted plans are out of scale therefore it is not possible to accurately determine the size. Measurements based on the scale provided indicates the proposed dormer extension at over 4.4m depth representing a size, scale and mass incongruent with the existing building and wider surroundings. The proposal is considered to result in significant harm to the visual amenity and to the character and appearance of the setting and is therefore not supported.

Acceptable <input type="checkbox"/>	Unacceptable <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
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Neighbouring Amenities:

The proposal due to its visual impact from the bulk and mass to the rear roof slope is likely to result in an overbearing form of development detrimental to adjacent neighbours.

Acceptable <input type="checkbox"/>	Unacceptable <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
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EFDC Householder & Other Minor Applications Check List

Green Belt:			
Acceptable <input type="checkbox"/>	Unacceptable <input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Highway Safety/Parking:			
Acceptable <input type="checkbox"/>	Unacceptable <input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Trees and Landscaping:			
Acceptable <input type="checkbox"/>	Unacceptable <input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Comments on Representations, if any:			
<p>Additional Notes:</p> <p>Having regard for the issues raised and as outlined above, the proposal is recommended for refusal.</p>			
Officer Recommendation:	Approve <input type="checkbox"/>	Refuse	<input checked="" type="checkbox"/>

APPEAL COMMENTS OF THE CHIGWELL PARISH PLANNING COMMITTEE

The Parish Council originally objected to this application on what it considered robust planning grounds and maintains these objections. The Parish note the Appellant's arguments which on the whole have failed to address the Parish concerns

The appellant claims as benefit to outweigh the harm that the proposal will secure Oak Cottage's secure its optimum viable use as a family-dwelling as required by Paragraph 215 of the NPPF. The Parish consider that at five bedrooms, four receptions and three bathrooms and as last advertised for sale, the property is already a viable family home

Indeed, it seems some features and fabric have been removed or covered since that time as can be seen from the image of the rear living area below in comparison to the images of the same areas in the appellant's Heritage Statement



The Parish considers the proposal will result in significant harm to the character of the listed building and the setting of the same. This proposal does nothing to mitigate that harm in terms of the disproportionate relationship of previous extensions; indeed it could be said to add to that harm.

The appellants heritage statement (View 2, page 49) claims the run of mature trees would mean Oak Cottage and the proposed works would be obscured from view. This reference to natural screening fails to acknowledge any mitigating effect of this would be variable, particularly in colder months.

View 3, taken from the station indicates the prominence of the property on the High Road - it is a significant, widely recognised and admired local building. The proposal, which is considered out of proportion and harmful to the original, would be clearly visible from some distance when viewed from the High Road

The Parish strongly disagree with the opinion of the appellant's heritage advisor who considers both the historical value and communal value of Oak Cottage to be low.

It should be noted the appellant was advised on several occasions at pre-app stage that an application of this nature was unlikely to succeed

The Parish respectfully ask that the Inspector gives weight to the Parish objections and comments as an interested party when deciding the appeal