
Appeal Decision

Site visit made on 18 July 2016

by Thomas Bristow BA MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 October 2016

Appeal Ref: APP/D0840/W/16/3148935

1 St Andrews, 23 Park View, Truro, Cornwall TR1 2BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a grant of planning permission subject to conditions.
 - The appeal is made by Ms Tamasine Murphy against the decision of Cornwall Council.
 - The application Ref PA16/01809, dated 17 February 2016, was approved on 21 April 2016 and planning permission was granted subject to conditions.
 - The development permitted is alterations to garage and associated works, for additional accommodation.
 - The condition in dispute is No 4 which states that:
'The development hereby approved shall only be occupied by members of the family, or non-paying guests, of the occupiers of the dwelling known as 1 St Andrew, 23 Park View, Truro and shall not be used, sold or let at any time as a separate residential unit of accommodation'.
 - The reason given for the condition is:
'To accord with development plan housing policies under which another dwellinghouse would not normally be permitted on the site because of the proximity of the existing dwellinghouse, the amenity space layout and access in accordance with the aims and intentions of paragraphs 53-55 (inclusive) of the National Planning Policy Framework.'
-

Decision

1. The appeal is allowed and the planning permission Ref PA16/01809 for alterations to garage and associated works, for additional accommodation at 1 St Andrews, 23 Park View, Truro, Cornwall TR1 2BW, granted on 21 April 2016 by Cornwall Council, is varied by deleting condition 4.

Application for Costs

2. An application for costs was made by Ms Tamasine Murphy against Cornwall Council, which is the subject of a separate decision.

Background

3. Permission was granted at appeal on 30 July 2002 for an extension to No 1 described in that decision as for a *'new kitchen/ garage, parking and 2 bedrooms (infill development)'*.¹ Condition 2 of that permission prevented the

¹ Appeal Ref APP/P0810/A/02/1084917.

conversion of the garage to additional accommodation in order to maintain sufficient parking provision associated with the property.

4. Permission was granted on 21 April 2016 for the development described in the banner heading above, essentially for the installation of double rear doors in place of the single door currently present, the addition of an internal staircase and raised floor, and the relocation of an internal partition wall. This appeal relates to condition 4 of that permission.

Procedural Matters

5. Section 79(1) of *The Town and Country Planning Act 1990* as amended (the '1990 Act') makes provision for an appeal made under Section 78(1)(a) thereof, as is the case here, to be allowed, dismissed or any part of the decision of the local planning authority reversed or varied. However the only matter in dispute in this case is condition 4, and there is nothing before me nor reason apparent from my site visit to arrive at a different conclusion regarding the acceptability of the proposal in other respects.
6. The appellant disputes that the proposal is for additional accommodation as it has thus been summarised by the Council. However there is no provision within relevant legislation to alter the description on an existing permission. Similarly as this appeal was made in respect of condition 4 of the 2016 permission there is no provision for me to consider removing condition 2 of the 2002 permission as the appellant has requested.

Main Issue

7. The Council holds no objection to the loss of the parking provision within the garage of the property, and I see no reason to disagree. Instead the stated reason for the imposition of condition 4 is as the creation of an additional dwelling would, in their view, be inappropriate in this location on account of its layout, access arrangements and associated outside space provision. On this basis, and in the light of the submissions before me, the main issue is whether condition 4 is necessary to prevent the creation of a separate dwelling.

Reasons

8. Section 55(3)(a) of the *Town and Country Planning Act 1990* as amended (the '1990 Act') establishes that the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change of use, for which specific planning permission is required. There is no dispute that the lawful use of the existing dwelling, No 1 St Andrews, is as a single residential unit. Neither of the planning permissions granted in 2002 or 2016 permits the use thereof as more than one dwelling, nor do they permit the use of any part of the property as a separate dwelling.
9. The appellant's stated intention for the works is to facilitate the relocation of a relative and to make the existing garage space more useable. As such the proposal would enable the conversion of what is presently a functional area of the property into a habitable space which could be occupied relatively

independently from the rest of the property (notwithstanding that the elements of the property to which this appeal relates are connected to the main house by way of internal doors).

10. I therefore agree with the Council that the element of the property to which this appeal relates could as a consequence be used as an annex. However that is not tantamount to the creation of a separate dwelling; an annex, by its nature, is ancillary to the existing property. Given the limited extent of the proposed works, and that the space to be altered is physically integral to the main house, in my view there is little likelihood of the 2016 permission giving rise to the creation of a separate dwelling.
11. I appreciate that identifying where subdivision of dwellings occurs without necessary consents may be less readily apparent than where a specific condition is imposed in this respect. Nevertheless the establishment of a separate residential unit would likely involve activities identifiable by the Council, and moreover control already exists by virtue of Section 55 of the 1990 Act. Consequently the retention of the disputed condition would not make any significant difference in terms of enforceability in this particular instance.
12. To conclude, even in the absence of condition 4, the creation of a separate dwelling would not be authorised by the permission granted in April 2016, and it therefore follows that the disputed condition is unnecessary.

Other Matters

13. Whilst the Council indicates that potential harm to the living conditions of future occupants would arise were a separate dwelling to be created, there is no suggestion that these issues would arise if the proposed accommodation remains ancillary. However, in view of my findings on the main issue, as set out above, I need not pursue this matter further.
14. Although the appellant contends that there were procedural shortcomings with the Council's handling of the application, these do not relate to the substantive matter in dispute in this decision. Procedural issues are moreover addressed in the associated costs decision referred to above.

Conclusion

15. For the above reasons, and taking all other matters raised into account, the proposal would not result in the creation of an independent dwelling and as a consequence condition 4 of planning permission Ref PA16/01809 is unnecessary and should therefore be deleted.

Thomas Bristow

INSPECTOR