
Appeal Decision

Site visit made on 14 February 2017

by Andrew McCormack BSc (Hons) MRTPI

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

Decision date: 20 March 2017

Appeal Ref: APP/Y0435/W/16/3161887

The Hive, Timpson Lane, Clifton Reynes MK46 5DT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr & Mrs G Sparrow against the decision of Milton Keynes Council.
 - The application Ref 16/01469/FUL, dated 31 May 2016, was approved on 8 August 2016 and planning permission was granted subject to conditions.
 - The development permitted is 'Loft conversion of the roof and creation of a first floor in an ancillary accommodation inside an existing detached garage to include one roof light in the south east roof elevation and two roof lights in the northwest roof elevation.'
 - The condition in dispute is No 3 which states that: 'The detached garage and its roofspace, the alteration of which is hereby permitted, shall be used as ancillary or incidental accommodation to The Hive, Timpson Lane, Clifton Reynes, solely for use by members of the household residing at the premises and shall not be let or sub-let, or transferred separately from the main property.'
 - The reason given for the condition is: 'To ensure the premises are not sub-divided without the permission of the local planning authority and to avoid the creation of two distinct dwellings for reasons of parking, access and residential amenity, in accordance with saved policies D1, D2, T10 and &15 of the Milton Keynes Local Plan (2001-2011).'
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Decision

1. The appeal is dismissed.

Procedural Matter and Background

2. The description of development has been changed from that stated on the planning application form which is '*change of use for first floor of existing detached garage building, from incidental to 'ancillary' accommodation in connection to the dwelling; (ground floor to be retained as garage); Insertion of roof windows to north west and south east elevations; Existing window to south west elevation to be increased in dimensional size to afford adequate means of escape*'. The Decision Notice describes the approved development as shown in the banner above. Planning permission has therefore been granted for the development as described on the Decision Notice, rather than that stated on the application form. Whilst there are similarities between the two descriptions, I must assess the appeal on the basis of the development granted planning permission.
 3. The appeal follows the granting of planning permission Ref 16/01469/FUL, approved on 8 August 2016 and relates to the attached Condition 3 regarding the occupancy, letting and sub-letting of the ancillary accommodation on the first floor of the approved scheme. The Council's reason for the condition is to
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ensure the premises are not sub-divided without the permission of the local planning authority and to avoid the creation of two distinct dwellings for reasons of parking, access and residential amenity. Subsequently, an appeal was lodged against that imposition of Condition 3 and seeks to vary the wording of the condition to 'The detached garage and its roof space shall be used as ancillary or incidental to the main residential dwelling.' It is against this background and on this basis that I have determined the appeal.

Main Issue

4. The main issue is whether the disputed condition is necessary and reasonable to make the proposal acceptable with regard to local and national planning policies and guidance.

Reasons

5. The appeal building is a detached garage which is situated some distance from the host property. Were the approved planning permission Ref: 16/01469/FUL to be implemented, the building would have a shower, toilet and a room on the first floor capable of allowing people to sleep.
6. The Council has concerns that the approved development, if implemented, may form a separate dwelling or that the approved application would be a precursor to a further application to convert the appeal building to a separate dwelling. Therefore, the Council considers it necessary and reasonable to provide clarification by attaching Condition 3, as imposed, to the approved planning permission to prevent this from taking place without the express consent of the local planning authority.
7. The appellants state that the main reason for seeking to vary Condition 3 is that the development described on both the application form and Decision Notice states that the accommodation shall be 'ancillary'. Therefore, it is argued, the clause in Condition 3 relating to sole use by members of the household of the main property is unnecessary and unreasonable.
8. Paragraph 005 of the Planning Practice Guidance (PPG) sets out the tests which planning conditions should meet. These are that they should be necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other respects.
9. Having had regard to the evidence before me, I find that as the proposed development would have a shower, toilet and a room on the first floor capable of providing a space to sleep, it would have the potential to become a separate dwelling from the host property. I note the appellants' point that the approved development is described as being 'ancillary' accommodation. Notwithstanding this, in my view, the term 'ancillary' is not sufficiently precise to address the specific concerns of the Council and other interested parties regarding the potential for the appeal building to become a separate dwelling. Furthermore, in the absence of any further planning control, this potential could lead to other associated impacts on parking, access and residential amenity which have been identified in evidence.
10. The appellants argue that the proposal would be no different to the provision of an additional bedroom with an en-suite bathroom within the main dwelling and would not result in any intensification of use on the site. However, whilst the appeal scheme would be part of the same planning unit, it would fundamentally

differ from an additional bedroom in that it would be physically separate and would be substantially distant from the host property.

11. I appreciate that the Council has accepted the principle that the proposal would provide ancillary accommodation to the host property. However, the Council is entitled to impose necessary and reasonable conditions in order to address specific concerns identified in relation to the approved scheme in order to make it acceptable. From all I have seen and read, I find the disputed condition, as imposed, to be necessary and reasonable in dealing with the identified concerns. Furthermore, I find it to be relevant to planning and to the development, enforceable and precise in clarifying the permitted occupancy and use of the scheme. Therefore, for the above reasons, Condition 3, as imposed, meets the requirements set out in the PPG.
12. Consequently, I conclude that Condition 3, as imposed, is necessary and reasonable in order to make the proposed development acceptable with regard to Policies D1, D2, T10 and T15 of the Milton Keynes Local Plan (2001-2011) and that it complies with the relevant guidance found in the PPG.

Conclusion

13. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Andrew McCormack

INSPECTOR