
Appeal Decision

Site Visit made on 23 November 2021

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 November 2021

Appeal Ref: APP/D1835/W/21/3276122

83 Bromyard Road, Worcester WR2 5BZ

- 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 P Brooks against the decision of Worcester City Council.
 - The application Ref 20/00785/FUL, dated 19 October 2020, was approved on 5 March 2021 and planning permission was granted subject to conditions.
 - The application permitted is a two storey rear extension to provide 3no. one-bedroom flats.
 - The condition in dispute is No 3 which states that: *Notwithstanding any details shown on the submitted plans and supporting documents, this consent expressly excludes planning permission for the basement residential unit which is active occupation without planning permission.*
 - The reason given for the condition is: *Inadequate details were provided to allow the Local Planning Authority to assess the quality and reasonableness of the accommodation provided in line with the requirements of the South Worcestershire Development Plan 2016.*
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Decision

1. The appeal is allowed and planning permission 20/00785/FUL for a two storey rear extension to provide 3no. one-bedroom flats at 83 Bromyard Road, Worcester WR2 5BZ is varied by deleting Condition 3.

Procedural Matter

2. The revised National Planning Policy Framework (the Framework) has been published since the appeal was submitted. Both main parties have been given the opportunity to comment on this. My decision is made in the context of the revised Framework and I am satisfied that no interested party has been prejudiced by my approach.

Background

3. In March 2021 planning permission was granted for an extension providing 3 flats subject to a series of conditions. In doing so the Council imposed a condition stating that no planning permission is granted for the basement flat.

Main Issue

4. The main issue is whether Condition 3 is necessary and reasonable having regard to the satisfactory living conditions of occupants.

Reasons

5. The appeal property comprises an extended detached building sub divided into flats located within a suburban area of Worcester.
6. The Council has raised concerns in relation to the basement flat on the basis that it does not benefit from planning permission and are unable to assess whether it provides reasonable living accommodation.
7. I acknowledge that the basement flat is shown on the plans. I also note that details of it may well have been provided as part of a previous application. However, the appellant's Accommodation Schedule indicates that the flat is unauthorised. Moreover, the application form only refers to an extension to form 3 flats with no mention of the basement flat and which is reflected on the proposed plans. As such, based on the evidence before me, the basement flat did not form part of the development as submitted by the appellant.
8. Whether or not the basement flat is lawful as an independent residential unit, is not a matter for this appeal made under section 78 of the Town and Country Planning Act 1990. The application and this appeal relate to the development applied for, and other mechanisms exist to regularise the basement of the property.
9. Paragraph 56 of the Framework advises planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other aspects.
10. As the basement flat did not form part of the development, as submitted by the appellant, and other mechanisms exist to regularise it I find that the condition is not necessary.
11. Consequently, the deletion of Condition 3 in full would not conflict with the requirements of the South Worcestershire Development Plan (2016).

Other Matters

12. The appellant's concerns over the application process and communication post decision are not matters for me in this appeal.
13. The appellant has made reference to the previous appeal at the site. However, there is no substantive evidence to indicate that the basement flat formed part of the appeal proposals considered by the Inspector. In any event every appeal must be considered on its own merits, as I have done.
14. I have taken into consideration representations regarding noise and disturbance, highway safety, and waste.
15. Taking into account the advice of the Council's Highway Officer and based on observations at my site visit, I am satisfied that the development would not prejudice highway safety.
16. The Council have not raised concerns in relation to the activities at the property and I have no substantive reason to disagree. As such, I am satisfied that the proposed development would not unduly harm the living conditions of nearby occupiers in respect of noise, disturbance or waste.

Conclusion

17. For these reasons the appeal is allowed and the planning permission is varied by deleting Condition 3.

B Thandi

INSPECTOR