



Appeal Decision

Site visit made on 2 August 2022

by M. P. Howell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th September 2022

Appeal Ref: APP/Z0116/W/22/3295715

91 Exmouth Road, Knowle, Bristol City, Bristol BS4 1BD

- 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 Mrs Alex Fry against the decision of Bristol City Council.
 - The application Ref 22/00486/X, dated 31 January 2022, was approved on 17 March 2022 and planning permission was granted subject to conditions.
 - The development permitted the variation of Condition No 2 following grant of planning permission 20/05846/H - Side and rear extension for a proposed garage. Amendment to regularise internal layout.
 - The condition in dispute is No 2 which states that: *Following the development hereby approved the side/rear extension shall be used only ancillary to the enjoyment of the property known as 91 Exmouth Road and shall not be used or sub-let as a self-contained dwelling, independent to the host property.*
 - The reason given for the condition is: *To protect neighbouring amenity. Any other use requires further assessment as it could conflict with the adopted Bristol Development Framework Core Strategy 2011 and the Bristol Site Allocations and Development Management Policies 2014, and its separate use would require careful assessment.*
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Decision

1. The appeal is allowed, and planning permission Ref 22/00486/X for the variation of condition No 2 following grant of Planning Permission 20/05846/H - side and rear extension for a proposed garage. Amendment to regularise internal layout at 91 Exmouth Road, Knowle, Bristol City, Bristol BS4 1BD granted on 17 March 2022 by Bristol City Council, is varied by deleting conditions 1, 2 and 3.

Background and Main Issue

2. Application 22/00486/X was submitting seeking amendments to a side and rear extension approved in 2020. The appellant sought to vary the plans attached to the 2020 consent to regularise the internal layout.
3. The proposal subject of the appeal relates specifically relates to the 2022 permission, which is a second and separate consent for the proposed extension. The application was granted consent for the internal changes but included a condition restricting the side and rear extension accommodation to an ancillary use to the main property.
4. The reason given for the condition attached to the 2022 permission was to protect residential amenity, and that any other use requires further assessment against development plan policies. The Council specifically indicates that an active enforcement case (LPA reference: 21/30583/NAP) relates to the unauthorised use of the extension as a separate residential unit.

The appellant disputes the alleged use but based on the enforcement complaint the Council considered it necessary to impose the condition.

5. I have had regard to the information provided, but any enforcement investigation or unauthorised use of the extension as a dwelling is separate procedure and not something I can consider as part of this appeal. At the time of my site visit, an extension had been erected in the position indicated on the proposed drawings. For the avoidance of doubt, I have assessed the scheme based on drawings 19.040 – 001, 19.040 – 010, 19.040 – 011a and 19.040 – 012.
6. In view of the above, and the evidence before me, the main issue is whether condition 2 is necessary to control the nature or the use and safeguard the living conditions of neighbouring occupants.

Reasons

7. The appeal site relates to a semi-detached dwelling located on a corner plot on Exmouth Road. The proposed development is a single storey side to rear extension to the main property. The extension accommodates a bedroom and bathroom and an internal access to the main house.
8. I note the alleged use of the extension as an independent dwelling, but that is not the proposal before me. The proposed development has the scale, height and appearance of an extension to the dwelling. It is internally linked to the main house and provides a bedroom and bathroom, but it does not include a kitchen, which is an essential part of a separate residential use. Whilst it is feasible that the proposed development could be converted into a separate dwelling, any subsequent change of use in this regard would require planning permission. In this instance, the Council would be able to fully assess the merits of such a proposal against the appropriate development plan. Furthermore, with or without the disputed condition, the impact the development would have on neighbouring living conditions would be no different.
9. Consequently, having regard to the above, condition 2 is not necessary to control the nature of the use or safeguard the living conditions of neighbouring occupants.

Conditions

10. As I have concluded that the proposed development is acceptable without the condition, it would be necessary to delete condition 2 of the permission.
11. Furthermore, in determining the appeal, s79(1) of the Town and Country Planning Act 1990 allows the decision maker reverse or vary any part of the decision (whether the appeal relates to that part or not) and may deal with the application as if it had been made to him or her in the first instance, including being able to vary, delete or add a condition. In this instance, as the extension is completed and the proposal is to regularise the internal layout, it is not necessary to impose a time limit or a plans condition.
12. In view of the above, no conditions have been attached to this permission.

Conclusion

13. For the reasons given above, I find that the disputed condition is not necessary to control the nature of the use or safeguard the living conditions of neighbouring occupants. I conclude that the appeal should be allowed, and the condition removed as set out in the formal decision.

M. P. Howell

INSPECTOR