
Appeal Decision

Site visit made on 14 January 2025

by **J J Evans BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 February 2025

Appeal Ref: APP/Z0116/W/24/3350402

88 Briar Way, Speedwell, Bristol BS16 4JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Pingue against Bristol City Council.
 - The application Ref is 24/01300/H.
 - The development proposed is the erection of an ancillary annexe.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Applications for Costs

2. An application for costs was made by Mr Pingue against Bristol City Council. This application is the subject of a separate decision.

Procedural Matters

3. A revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024. Having regard to the matters that are most relevant to this appeal, there have been few substantive changes albeit that the numbering of paragraphs has changed. Therefore, no one would be prejudiced by the changes, and the latest version of the Framework has been referred to in this decision.
4. Across the suite of submitted drawings there are inconsistencies of detail. The proposed block plan (drawing number 3270-01 Rev *) shows a pitched roof building rather than the flat roof depicted upon the proposed elevations (drawing number 3270-02 Rev B). In addition, within this drawing there are windows and doors shown on the elevations that are not depicted on the floor plan. For the avoidance of doubt the appeal has been considered with regard to the scheme proposing a flat roofed building as shown on the detailed drawings, albeit with consideration of the alternative proposed fenestration and door arrangements.

Main Issues

5. The appeal has been made against the failure of the Council to give notice within the prescribed period of a decision on an application for planning permission. The Council's appeal statement refers to the impact of the scheme upon the character and appearance of the area, and also upon the living conditions of nearby residents. Consequently, the main issues in this case are:-

- The effect of the scheme upon the character and appearance of the area; and
- The effect upon nearby residents, having particular regard to outlook and privacy.

Reasons

Character and Appearance

6. The appeal property is one half of a pair of semi-detached dwellings positioned within a residential estate comprising mostly houses of similar ages and styles. The houses are set back from the public highway behind similar sized front gardens, with many having deep rear gardens that creates a spacious appearance to the area. This, along with the repeated positioning of the houses within their plots, the strong consistency of building lines, their similar styles, sizes, and materials, combine to give a distinct planned visual cohesion to the area.
7. The annexe would be a single storey flat roofed building with an L-shaped plan form and would occupy much of the breadth of the garden. Constructed of timber walls the building would be positioned at the rear of the garden and would comprise two bedrooms, an open plan lounge, dining room, kitchen, and a bathroom. Within the planned cohesion of the estate, where the houses create strong building lines and have open, spacious rear gardens, even with a flat roof the annexe would be a substantial and discordant addition to the area, and particularly so as it would have a footprint larger than the host dwelling. Its proximity close to the property boundaries would exaggerate its large size, giving it a cramped, constrained appearance. Furthermore, as the hillside slopes up towards the south and also drops away to the west, the annexe would be clearly visible within the surrounding area, including from the public vantage points that are available from nearby roads.
8. Whilst the appellant has referred to the building being typical of urban locations, in this case there are very few outbuildings of a similar size nearby, and none within the gardens that border the appeal property. There are other houses with outbuildings and sheds, albeit in most cases they are significantly smaller in size, such as that in the garden of 90 Briar Way, and they have a legible physical and functional subservience to the host dwelling. There are some properties with larger outbuildings, such as at 86 Briar Way, but they are smaller than the proposed annexe and have an active relationship to the public highway as well as having a clear ancillary functional relationship to the host dwelling. As such the large size and position of the annexe, would result in it being a disruptive, intrusive addition within an area characterised by mature, open rear gardens.
9. The size of the annexe would be to accommodate the appellant's daughter and grandchild and would provide for independent living from the main dwelling. The appellant has referred to *Uttlesford DC v SSE and White [1992] JPL 171* as it established that an annexe would not necessarily become a separate planning unit from the host. In this case, occupiers of the annexe would share the pedestrian access to the side of the house and the off-street parking within the front garden. The two households would share the use of the rear garden, as well as socialising in the main dwelling. Notwithstanding this, the generous size of the annexe would allow it to be occupied as a home for a small family. Irrespective of the linkages with the host dwelling, the size of the annexe would be such that there would be a significant increase in activity, noise and disturbance from the presence of two

households. Given this, the annexe would dominate the rear garden and the surrounding area, substantially intensifying the use of the property and thereby changing the character and appearance of the area.

10. The appellant has referred to permitted development rights allowing for the construction of an outbuilding that would be the same size, siting and design as the annexe. It is not the role of the appeal process to determine whether a use or operation would be lawful for the appellant to rely on permitted development rights as a fallback. Moreover, the appellant has not provided confirmation of whether the property benefits from such rights, and if they do exist, why the annexe has not proceeded on that basis. Given the nature of the appeal scheme, including that it is required as a residential annexe, the weight that can be attributed to such a fallback is limited.
11. For these reasons the annexe would unacceptably harm the character and appearance of the area, and the suggested conditions, including restricting occupation to family members, would not overcome this harm. The scheme would fail to accord with Policies BCS20 and BCS21 of the Bristol Core Strategy (2011) (CS), as these seek, amongst other things, high quality, well designed environments, that contribute positively to an area's character and identity. Nor would the scheme accord with Policies DM26, DM27, and DM29 of the Bristol Local Plan Site Allocations and Development Management Policies (2014) (SADM) and their requirements that include high quality buildings which should be appropriate to the immediate context and site constraints.

Living Conditions

12. The annexe would be positioned very close to the property boundaries. Currently the garden is surrounded by mature evergreen hedges. Not only do these provide an attractive verdant boundary to the garden, but they also provide screening and privacy.
13. Although single storey, the annexe would be deep and wide, and it would have multiple windows that would have an outlook directly into neighbouring gardens and homes. The size and design of the annexe would result in an unacceptable loss of privacy for all surrounding residents, as future occupiers would have immediate and direct views into neighbouring gardens. This loss of privacy would be particularly harmful for the occupiers of 1 Furze Road (No 1), as occupiers of the annexe would have views into the garden of this house and also into all its rear facing rooms.
14. Whether the hedge could survive the construction works has not been demonstrated, and landscaping cannot be relied upon to mitigate the loss of privacy to nearby residents for the lifetime of the development. Tall fences may afford some screening, but these and high hedges would result in unacceptably constrained and oppressive outlooks for future occupiers of the annexe, as well as restricted light levels.
15. The annexe would be positioned upon the highest part of the garden. Having regard to this, the size and close proximity of the annexe to the property boundaries would result in it dominating the outlook for nearby residents. Occupants of No 1 would be particularly affected as this property is lower down the hillside and it has a shallow rear garden. As the annexe would border the width of

their rear garden, the outlook for the occupiers of this property would be dominated by the presence of this building.

16. The size of the annexe would be such that it could be occupied by a small family, with the consequential impact that there would be a significant intensification of the use of the property as a whole. Even if conditioned to be ancillary accommodation to the main dwelling, the size of the annexe would allow the presence of two households. The scheme would unacceptably impact upon the living conditions of nearby residents, contrary to the requirements of CS Policy BCS21 and to those of SADM Policy DM29 as they require amongst other things, the safeguarding of the amenity of existing development, the creation of a high-quality environment for future occupiers, and that appropriate levels of privacy, outlook and daylight are achieved.

Other Matters

17. SADM Policy DM30 and the Guide for Designing House Alterations and Extensions (2005) have been referred to by the Council. As these are concerned specifically with extensions and alterations to existing buildings they have had little bearing upon the consideration of the appeal scheme.
18. The Council has queried whether the scheme would be householder development as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015. However, the original application was submitted as householder development, and was validated as such by the Council. Notwithstanding this, an appeal has been made under Section 78 of the Town and Country Planning Act 1990 (as amended) and has been considered on that basis.
19. Finally, the appellant's concerns regarding the Council's handling of the application relate to procedural matters and have no bearing on the consideration of the planning merits of the case.

Conclusion

20. For the above reasons the adverse impacts arising from the scheme would significantly and demonstrably outweigh the aforementioned benefits, and the suggested conditions would not overcome these harms. The scheme would conflict with the development plan when considered as a whole, and there are no other considerations, including the requirements of the Framework, that outweigh this finding. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed, and planning permission is refused.

J J Evans

INSPECTOR