

The Courtyard, Edinburgh Road, Reading Berkshire RG30 2UA

Planning statement to support lawful use application for the existing use of the annex attached to 42, Windrush Way Reading RG30 2NQ

Ref. 9432

Date. 01-04-25

1.0.0. History

Planning consent was obtained Ref. 98/0226/FD on 7th July 1998 for

The erection of a two storey side extension to create a granny annex & single storey front extension.

There were two conditions attached to the consent as follows;

- 1 The development to which this permission relates must be begun not later than the expiration of five years beginning with the date on which the permission was granted. Reason: to prevent an accumulation of unimplemented planning permissions, and in accordance with Section 91(1) to the Town and Country Planning Act 1990.
- 2 The extension (building) hereby permitted shall not be occupied at any time other than for the purposes ancillary to the residential use of the dwelling at (known as) 42 Windrush Way. Reason: as it is considered that the site is inappropriate for an independent unit of accommodation in addition to the main dwelling and such development would be detrimental to the amenities of the area.

Condition 1 was satisfied as the extension commenced before the expiration of five years.

The extension was completed in March 2021 & signed off by Reading Borough Council Building Control.

The annex was going to be used by a member of the owner's family, however a change in circumstances meant this was no longer required.

Therefore owner's decided to rent out the annex until it was required in the future.

There are some minor differences between the approved plans & what was built in that the entrance door to the annex was placed on the front elevation & a connecting door was formed between this annex & the garage which has since been incorporated into the main dwelling house.

The annex incorporates a living room / kitchen on the ground floor & bedroom / bathroom on the first floor as shown on the approved drawings. See Appendix 1 for the consent & approved drawings.

1.1.0. The situation today.

The annex is currently being rented out to tenants who do not have any family tie to the owners/occupiers of the main dwelling.

The Council consider that this amounts to a Breach of Condition as they believe the annex is now effectively a separate dwelling & not ancillary to the main dwelling.

We do not believe there is a breach of condition 2 as discussed below;

The annex was approved Ref. 98/0226/FD containing no physical entrance into it from the main house even although the consent stated that it would be inappropriate for an independent unit of accommodation in addition to the main dwelling.

The annex was constructed incorporating an internal door between the living room of the annex & the living room of the main house to make it easier to gain access to & from the annex as required.

The annex as indicated on the drawings shall only be used as ancillary accommodation, it does not say only to be used by family members or non paying guests of the occupiers of the dwelling.

The annex is physically linked to the main dwelling & is connected to its services, although incorporating its own kitchen & bathroom contains an internal doors into the main dwelling.

Definition of an Annex as defined in planning guidance;

Accommodation which is ancillary to the main residential dwelling and used for this purpose. It may be interconnecting within the property as a whole (for instance via doorways) or it may be accessed via a completely separate external entrance, but if it forms separate and additional accommodation for the main house, it will be viewed as an annexe.

There is some interesting discussions within

VCONST14170 - Dwellings - an explanation of terms: what 'designed as a dwelling or number of dwellings' means: how Note 2(c) is expressed in planning notices

You should not expect the wording of Note 2 (c) to appear as an explicit condition in the planning permission. Planners tend to adopt a form of wording that meets the particular circumstances of the case and often use the word 'ancillary' to tie use or disposal of the permitted dwelling to something else.

The following are examples of how a Note 2(c) prohibition has been expressed in a planning permission:

The living accommodation hereby approved shall be used as a self-contained unit of occupation, ancillary to the associated main household and shall not be severed as an independent and unconnected residence.

The annexe shall be used ancillary to the dwelling approved under application....and shall at no time be sold or let as a separate dwelling.

The reason for imposing a restriction in a planning notice is often a good aid to deciding if it amounts to a

Note 2(c) prohibition. In cases of uncertainty as to whether or not a restriction amounts to a Note 2 (c) prohibition, the planners' views should be sought by the trader.

Planning Permission Circular 11/95, issued by the Office of the Deputy Prime Minister, provides the following model planning condition where the creation of an additional dwelling would be unacceptable for planning purposes:

The extension (building) hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as [].

This model condition doesn't meet Note 2(c).

Planning Authorities aren't obliged to follow this model condition and can set their own condition. The Tribunal has examined alternative conditions in the cases below. Where a condition is framed in the same way, the Tribunal's decision can be followed, except where indicated. If you are in any doubt about whether a covenant, planning consent or similar document meets Note 2(c), you should consult the Construction Unit of Expertise.

Philip Thompson (VTD 15834):

The living accommodation hereby approved shall be used as a self-contained unit of occupation, ancillary to the associated main household, and shall not be severed as an independent and unconnected residence.

Held: separate use prohibited - appeal dismissed.

Leslie Robert Hamilton (VTD 16020):

The annexe shall be used ancillary to the dwelling approved under application... and shall at no time be sold or let as a separate dwelling.

Held: separate use and separate disposal prohibited - appeal dismissed.

There is no intention by the owner's that this will one day be a separate planning unit as it is too small & it would detract from the value of the principal dwelling.

We therefore believe that this annex is ancillary & is not in breach of condition 2 of Planning Consent Ref. 98/0226/FD & therefore lawful.

The Applicant would be content to sign a 106 legal agreement to the effect that this will not ever form a separate unit & will always be Ancillary to the main dwelling.

We therefore believe the application for an existing lawful use should be approved.

Chris Keen MRICS MCABE



