
Appeal Decision

Site visit made on 14 October 2016

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

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

Decision date: 11 November 2016

Appeal Ref: APP/D3640/W/16/3155601

9 Crofters Close, Dettington Park, Deepcut GU16 6GH

- 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 Ms L Merran against the decision of Surrey Heath Borough Council.
 - The application Ref 15/1123, dated 22 December 2015, was approved on 20 May 2016 and planning permission was granted subject to conditions.
 - The development permitted is *'the conversion of existing garage into store/games room and the erection a single storey extension to this building to serve as a gym. (Amended plans rec'd 09/03/16).'* (sic)
 - The condition in dispute is No 4 which states that:
'The development hereby approved shall only be occupied ancillary to the use of the dwelling 9 Crofters Close for purposes incidental to the enjoyment of the property for domestic needs or personal enjoyment of the occupants of the dwellinghouse. No primary living accommodation shall be installed within the development unless otherwise agreed in writing by the Planning Authority'.
 - The reason given for the condition is:
'To maintain planning control of this property and to ensure that the additional accommodation is not in any way severed from the main dwelling to provide a self-contained dwelling unit to the detriment of the character of the area and to accord with Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012 and the National Planning Policy Framework'.
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Decision

1. The appeal is allowed and the planning permission Ref 15/1123 for the conversion of existing garage into store/games room and the erection a single storey extension to this building to serve as a gym. (Amended plans rec'd 09/03/16) at 9 Crofters Close, Dettington Park, Deepcut GU16 6GH granted on 20 May 2016 by Surrey Heath Borough Council, is varied by deleting condition number 4 and substituting for it the following condition:
 - 1) The conversion and extension hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 9 Crofters Close, Dettington Park, Deepcut, GU16 6GH.

Main Issue

2. The main issue is the effect that varying the condition (by removing the last sentence) would have on the character of the area.

Reasons

3. Planning permission was granted for a single storey extension to an existing garage (herein the outbuilding) in May 2016, following the submission of amendments to the originally submitted drawings. Put simply, the appellant wishes to install toilet, shower and sink into the outbuilding so that the outbuilding can be used as a gym, steam room and sauna by occupants of 9 Crofters Close. To this end they wish the last sentence of the condition to be omitted (referring to no primary living accommodation being installed).
4. The Council considers that the second sentence of the condition prevents the installation of such items, as these would constitute primary living accommodation when taking into account the first informative of the decision notice. The Council's statement also points to Page 42 of the DCLG *Permitted Development Rights for householders - Technical Guidance April 2016*, which indicates that '*A purpose incidental to a house would not, however, cover normal residential uses, such as separate self-contained accommodation nor the use of an outbuilding for primary living accommodation such as a bedroom, bathroom, or kitchen.*'
5. However, the purpose of the condition in this case, as set out in the reason, is to protect the character of the area by ensuring that the outbuilding is not severed from the main dwelling. It is unclear as to how the removal of the second sentence of the condition, as sought by the appellant, would result in the conversion of the outbuilding into some form of non-ancillary use to 9 Crofters Close. Paragraph 206 of the National Planning Policy Framework (the Framework), as supported by the national Planning Practice Guidance sets out that conditions should only be imposed where they are necessary, relevant to planning and the development to be permitted, enforceable, precise and reasonable in all other respects.
6. In this case, the first part of the condition clearly sets out that the outbuilding should not be severed from the dwelling through a non-ancillary use. This element of the condition is reasonable to ensure that the outbuilding is ancillary, and it would be open to the local planning authority to enforce or take other action against possible breaches, in accordance with established planning practice and process. What is not reasonable in this case, is the second sentence of the condition, which lacks precision in terms of its reliance upon an informative and the fact it is unnecessary given the first part of the condition. I therefore conclude that the second sentence of the condition is not necessary or reasonable in the interests of the character of the area.

Conclusion

7. As I have concluded that only the first part of the condition is necessary and reasonable, but the second sentence is unreasonable, unnecessary and imprecise, I will replace the condition by omitting the second sentence and rewording the first sentence.
8. For the reasons given above, I conclude that the planning permission should be varied as set out in the formal decision.

Cullum J A Parker

INSPECTOR