



Appeal Decision

Site visit made on 7 November 2017

by Darren Hendley BA(Hons) MA MRTPI

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

Decision date: 4th December 2017

Appeal Ref: APP/N4720/D/17/3180497
14 Stubley Farm Mews, Morley LS27 9ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Mark Allen against the decision of Leeds City Council.
 - The application Ref 17/02287/FU, dated 7 April 2017, was refused by notice dated 1 June 2017.
 - The application sought planning permission for the conversion of an integral garage to a habitable room without complying with a condition attached to planning permission Ref 16/07926/FU, dated 2 March 2017.
 - The condition in dispute is No 3 which states that: *"The parking space to the rear of the house as shown on plan reference PL02 Rev E shall be retained for the purpose of vehicle parking in association with the dwelling house at all times."*
 - The reason given for the condition is: *"To ensure that the property is able to provide 2 off-street parking spaces to minimise on-street parking that would be detrimental to highway safety."*
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of an integral garage to a habitable room at 14 Stubley Farm Mews, Morley LS27 9ND in accordance with the application Ref 17/02287/FU dated 7 April 2017, without complying with condition No 3 attached to planning permission Ref 16/07926/FU, dated 2 March 2017 and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from 2 March 2017.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PL 03 Location Plan, PL 02 Revision E Plans As Proposed.
 - 3) Notwithstanding the details shown on the approved plans this permission does not grant consent for any form of boundary treatment, walls, fences, railings or gates for which separate planning permission may be required.

Application for costs

2. An application for costs was made by Mr Mark Allen against Leeds City Council. This application will be the subject of a separate Decision.

Background

3. The appeal property includes a garage, which has received planning permission (ref: 16/07926/FU) to be converted into a utility/store and a kitchen. This permission included condition 3, which sought to retain a single parking space which is accessed from the rear of the property. This parking space was provided subsequent to the original construction of the property. A further parking space is also found in front of the garage.
4. The appellant contends that condition 3 should not have been applied as the garage to be converted is of a sub-standard size for a parking space, that it does not fix perceived parking problems and it limits the use to the rear of the house. The Council, whilst accepting the garage is of sub-standard size, consider the parking space is required due to parking problems and as parking provision on Stubley Farm Mews is of a limited nature, raising concerns with regards to highways safety and the free flow of traffic.

Main Issue

5. I consider the main issue is whether condition 3 is reasonable and necessary in the interests of highway safety, including the free flow of traffic on Stubley Farm Mews.

Reasons

6. Stubley Farm Mews comprises a housing development, where parking comprises integrated garages and driveway spaces. The estate roads are narrow, and there is a lay by area on the approach into the development which, at the time of my site visit, was in use for parking. Cars were also parked at the termini of the roadways.
7. The Council's Parking Supplementary Planning Document (2016) (Parking SPD) refers to the Street Design Guide Supplementary Planning Document (2009) (Street Design SPD) which includes the car parking guidelines for the type of dwelling which is relevant to this appeal. The Street Design SPD sets out the numbers of parking spaces that are to be provided and the Council considers that two off street spaces are required.
8. The Street Design SPD also sets out guidelines for the dimensions of spaces and there is no dispute between the parties that the existing garage provides a sub-standard parking space. Based on my site visit, I see no reason to disagree with this assessment. The Street Design SPD states that where dimension requirements are not met then a garage will not count as a parking space. As such, the garage should not, in my view, therefore be counted as a parking space.
9. The parking space which is required to be retained under condition 3 is however clearly larger. The effect of condition 3, therefore, is to require the appellant to retain a space which does not provide equivalent compensatory parking provision, but represents an enhancement of what was originally planned on the development. This places an unjustifiable and disproportionate burden on the appellant and is, therefore, not reasonable.
10. As the proposed conversion of the garage would result in the creation of a kitchen and utility/store, this would not, in itself, create an undue level of additional demand for on street car parking. Although I note the Council's

comments over local parking issues and lack of opportunities to provide off street car parking elsewhere on the site, the proposal would not therefore be materially harmful with regard to highway safety and the free flow of traffic.

11. I am aware that 'permitted development' rights were taken away on the original planning permission (ref: 08/02946/FU) for the housing development, including for the conversion of garages, and that the Council contends that the appellant has used the garage for car parking. However, neither of these matters address that the garage is sub-standard in size and it does not provide an adequate parking space. When combined with a lack of an undue level of additional demand for parking, there is no requirement for condition 3 to make the proposal acceptable in planning terms.
12. As condition 3 is not reasonable or necessary, I also conclude the removal of the condition would comply with the tests for planning conditions set out in paragraph 206 of the National Planning Policy Framework and the related advice in the Planning Practice Guidance concerning the application of these tests.
13. Matters such as the planning application process and its determination by the Council are not for my consideration in the determination of this appeal.
14. I conclude that condition 3 is not reasonable or necessary in the interests of highway safety and the free flow of traffic. I acknowledge the proposal would not fully comply with parking guidelines that are referred to in Policy T2 of the Leeds City Council, Core Strategy (2014) (CS) and the Parking SPD in that, with reference to the Street Design SPD, two spaces would not be provided. However, given that the existing garage is sub-standard in size and that the proposal would not create additional demand for parking, I do not consider this would cause material harm to highway safety. As such, this is a material consideration that warrants taking a decision that does not fully comply with parking guidelines.
15. The proposal would comply with Policy T2 of the CS and 'Saved' Policy GP5 of the Leeds Unitary Development Plan (Review 2006) as far as these policies state that secure and safe access should be provided, and new development should resolve detailed planning considerations to maximise highway safety.

Conclusion

16. Accordingly, I conclude the appeal should be allowed and condition 3 should be removed. In accordance with Section 73(5) of the Town and Country Planning Act 1990, the time limit to implement the proposal shall run from the date of the planning permission (ref:16/07926/FU), and this is reflected in condition 1 of my decision.

Darren Hendley

INSPECTOR