



Appeal Decision

Site visit made on 22 July 2019

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 20 August 2019

Appeal Ref: APP/C3240/W/19/3226926

7 Limekiln Lane, Lilleshall, Newport TF10 9EY

- 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 John Hockin against the decision of Telford and Wrekin Council.
 - The application Ref TWC/2018/0749, dated 6 September 2018, was refused by notice dated 23 November 2018.
 - The application sought planning permission for alterations to existing outbuilding to provide ancillary living accommodation without complying with a condition attached to planning permission Ref W2003/0015, dated 10 April 2003.
 - The condition in dispute is No 3 which states that: *"The development hereby permitted shall only be used as an integral part and incidental to the enjoyment of the existing dwelling, Beaufort Lodge, and shall not at any time be occupied as separate residential accommodation."*
 - The reason given for the condition is: *"The use of the building as a separate dwelling is contrary to Wrekin Local Plan policies, and the relationship of the two buildings, and access arrangements at the site are considered to be unsatisfactory for the living accommodation hereby approved to be occupied as a separate dwelling. The condition seeks to ensure proper control of the development and to avoid any future undesirable fragmentation of the curtilage."*
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The original permission in question ('the 2003 permission') was granted in 2003, and the works to convert the outbuilding ('the Annexe') had evidently been completed at the time of my site visit.
3. The present application was described by the Council as being for the 'removal' of Condition No 3, which if permitted would mean the continued occupation of the Annexe without compliance with that condition. No associated application to make a material change of use of the land is made, but the current effect of the condition is to prevent that happening, and the Council have interpreted the present application as being one to allow the occupation and use of the Annexe as a separate dwellinghouse from the existing property, Beaufort Lodge, at 7 Limekiln Lane.
4. The appellant puts his case differently, however. A variation to the condition is sought, "to state that the development is part of Beaufort Lodge and as such

can be occupied by any persons on the same basis of a room to let in Beaufort Lodge". The Council considers that the present condition would restrict the occupation of the Annexe to family members only. Correspondence between the parties during the course of the appeal suggests that an issue in the appeal is for me to interpret the ambit of the present condition.

5. This is not, however, the case. Should the appellant wish to establish the limits of the present condition in any particular scenario and whether it would, for example, allow a lodger to be taken in, then this would be a matter for his own advice and, if appropriate, applying to the Council for a certificate of lawful use or development under the relevant provisions of the Town and Country Planning Act 1990.
6. The variation sought by the appellant is, having regard to the facts on the site which include that the Annexe appears capable of independent occupation, not particularly clear. A 'room to let' in this context could mean different things. As I am unable to determine the precise nature or scope of the 'room to let' that is sought by the appellant, it follows that I consider that a condition phrased in such a way would not be precise or, as a result, enforceable. I am obliged to deal with the appeal on the basis of the proposal being sought. However, in this case the nature of the condition is such that any variation can effectively only be for the removal of the condition. Therefore I shall approach the issue on the same basis as the Council, which is to say to consider the effects of permitting the residential use and occupation of the Annexe but without the condition requiring the ancillary link to Beaufort Lodge.
7. The reason for imposing the condition in 2003 related to the access arrangements and the relationship between the two buildings. The Council's reasons for refusing to allow the continued use of the Annexe without the condition raised the issue of the effect on the occupiers of the host dwelling, as well as the parking arrangements and effects on highway safety. The two main issues in the appeal are therefore whether the condition is reasonable and necessary in the interests of the living conditions of the occupiers of Beaufort Lodge, or in the interests of parking and highway safety.

Reasons

Living conditions

8. Beaufort Lodge is a detached dwelling in substantial grounds lying adjacent to Limekiln Lane, at the brow of a hill in the Shropshire village of Lilleshall. Backland development in the form of 7a Limekiln Lane, another detached dwelling, lies to the rear with an adjacent access lane.
9. The Annexe is accessed on foot from the front of Beaufort Lodge by passing around the rear side of the dwelling, between it and No 7a, through the rear courtyard of No 7 beyond which lies a substantial lawn area, through a walled archway into another substantial lawn area, and through a further walled archway into a rear courtyard area. The Annexe lies to the side of this rear courtyard, and presently can be accessed in no other way.
10. The Annexe appeared to be occupied at the time of my visit, and I was not afforded access to it internally. However, I understand it to consist of a bedroom, living area, kitchen area and bathroom. An electricity box was affixed

to the front wall and evidence of a water supply was close by in the courtyard. I saw no evidence of any separate waste or recycling storage area.

11. Policy BE1 of the Telford & Wrekin Local Plan 2011 – 2031 adopted in January 2018 ('the LP') requires that new development does not undermine existing uses, and LP Policy BE2 requires residential alterations to be adequately accommodated within the curtilage of an existing property without adversely affecting its neighbours. Without the retention of the condition, the occupation of the Annexe as a separate dwellinghouse would in my view conflict with both of these policies. The appellant expresses an intention to retain control over the occupation of the Annexe but, without the condition to ensure this is the case, there can be no future guarantee. The requirement for the occupiers of the Annexe to pass through the grounds and garden of Beaufort Lodge at such extremely close quarters to the house would result in unacceptable impacts on the privacy of the occupiers of Beaufort Lodge if the condition were not retained. I do not find the lack of a positive street frontage to the Annexe in itself to be harmful, but the 'landlocked' nature of the Annexe results in a significant potential for conflict between occupiers of Beaufort Lodge and the Annexe.
12. On this issue therefore I find that the living conditions of the occupiers of Beaufort Lodge require the retention of the condition in order to avoid the policy conflicts and harm that would, or could, otherwise arise.

Parking and Highway safety

13. The paved frontage of Beaufort Lodge is of a sufficient size to allow the parking of several cars, with a double garage beyond. Parking on the road immediately outside the property is unrestricted. A bus stop lies opposite and a primary school is very close by.
14. I have not been provided with a copy of the Local Plan Parking Standards, but LP Policy C5 requires parking to be designed as integral to development proposals, and convenient and accessible parking spaces to be provided. At some distance from the Annexe, the existing on-site parking is not especially convenient and this would be made more inconvenient if the occupiers of the Annexe had to resort to on-street parking. The appellant suggests that the provision of on-site parking could be made the subject of an amended condition, but this would still not amount to the accessible and convenient parking sought by Policy C5. I therefore find that the proposal would conflict with this element of the development plan.
15. However, and even if on-site parking were not provided, I do not consider that the proposal would result in harm to highway safety, and I note that the interests of highway users were not mentioned as a reason for imposing the condition in the 2003 permission. The Local Highway Authority have not commented on the proposal and do not appear to have been consulted, but I observed that there is ample unrestricted parking provision nearby. Despite the topography and the existence of the nearby primary school and therefore the likelihood of particularly vulnerable road users in the area, nothing I observed during my site visit suggested that parking on the street could not be undertaken adequately and safely.

16. On this issue therefore I find that although there would be no harm to highway safety, the parking arrangements would be inconvenient and conflict with LP Policy C5.

Conclusion

17. For the above reasons, although I have not found there to be any reason to dismiss the appeal on highway safety grounds, removing the planning condition would result in other harm. The occupiers of the Annexe would not have adequate parking arrangements, contrary to LP Policy C5, and their access to the Annexe through the grounds of Beaufort Lodge could lead to conflicts between occupiers. The privacy of the occupiers of Beaufort Lodge would be seriously adversely affected if their control over the occupiers of the Annexe were lost, conflicting with LP Policies BE1 and BE2. For these reasons I consider that the existing condition is reasonable and necessary and so the appeal is dismissed.

Laura Renaudon

INSPECTOR