



Appeal Decision

Site visit made on 12 January 2021

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th January 2021

Appeal Ref: APP/Z3635/W/20/3259643

10 Park Road, Ashford TW15 1EY

- 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 Mr Gabby Dillon against the decision of Spelthorne Borough Council.
 - The application Ref 20/00457/HOU, dated 6 April 2020, was approved on 18 June 2020 and planning permission was granted subject to conditions.
 - The development permitted is retention of outbuilding (retrospective).
 - The condition in dispute is No 01 which states "*that the outbuilding hereby permitted be used for purposes incidental to the enjoyment of the dwellinghouse and not for any primary living accommodation*".
 - The reason given for the condition is "*to safeguard the amenities and character of the locality*".
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Decision

1. The appeal is allowed and planning permission Ref 20/00457/HOU for retention of outbuilding (retrospective) at 10 Park Road, Ashford TW15 1EY granted on 18 June 2020 by Spelthorne Borough Council is varied by deleting condition 01 and replacing it with the following condition:
 - (1) That the outbuilding development hereby permitted be used only for purposes ancillary to the existing dwelling and not for any other purposes without the prior planning consent of the local planning authority.

Main Issue

2. The main issue is whether the condition is reasonable and necessary having regard to the character and appearance of the area and the living conditions of the occupiers of both the host dwelling and neighbouring dwellings.

Reasons

3. In respect of this householder planning permission, the appellant does not question the need to impose a condition which restricts the use of the approved outbuilding. However, he considers that condition No 01, as detailed in the banner heading above, is unnecessarily restrictive and that an alternatively worded condition, as has been imposed in respect of other similar development in the Borough, would equally ensure that the Council had appropriate control in respect of safeguarding the character and appearance of the area and the

living conditions of the occupiers of both the host dwelling and neighbouring dwellings.

4. The appellant considers that an amended condition should be imposed which reads *"that the outbuilding development hereby permitted be used only for purposes ancillary to the existing dwelling and not for any other purposes without the prior planning consent of the local planning authority"*.
5. I consider that a restriction to 'ancillary' rather than 'incidental' use would still safeguard living conditions and the character and appearance of the area. I would also point out that the planning permission already includes facilities that could be considered primary living accommodation (e.g. a kitchen). Therefore, there would be a conflict between the permitted plans and the original condition if the condition were not to be changed.
6. Given the above, I conclude that condition No 01 of planning permission 20/00457/HOU does not meet all of the tests as outlined in paragraph 55 of the National Planning Policy Framework. However, it is still necessary to impose a condition which restricts the use of the approved outbuilding and this should be worded in such a way that reflects what has been approved. In this case, use of the building for ancillary primary living accommodation purposes would not in itself cause material harm to the character and appearance of the area or to the living conditions of the occupiers of the host dwelling or surrounding dwellings.

Conclusion

7. For the reasons given above, I conclude that the appeal should be allowed and I vary the planning permission by deleting the disputed condition and replacing it with a new condition.

D Hartley

INSPECTOR