



Appeal Decision

Site visit made on 6 February 2025

by **H Jones BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 March 2025

Appeal Ref: APP/H0520/W/24/3349219

10 Greenfields, St Ives, Cambridgeshire PE27 5HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
- The appeal is made by Mr Steve Daniels (SD Construction & Developments Limited) against the decision of Huntingdonshire District Council.
- The application Ref 23/02431/S73 was approved on 24 June 2024 and planning permission was granted subject to conditions.
- The development permitted is described as “Variation of Condition 2 (Plans) of 18/00785/HHFUL”.
- The condition in dispute is No 4 which states that:
The proposed two storey annex hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling house and it shall at no time be independently occupied or let or disposed of, or used to accommodate bed-and-breakfast guests or other short-term visitors paying rent or fees or be used for any commercial activity. All internal access doors, between the proposed annex and host dwelling, shall remain as accesses and not be blocked up or have locks upon them at any time, to ensure full and free access to the entire dwelling is maintained as such in perpetuity.
- The reason given for the condition is:
Previous applications 21/00016/FUL and 20/00026/FUL for the subdivision of the existing dwelling to form two dwellings were refused on the grounds that the proposals would result in a high risk of flooding contrary to National Planning Policy Framework, which seeks to locate development away from areas which are at the highest risk of flooding. These proposals failed the Sequential and Exceptions Test as set out in the National Planning Policy Framework. This condition seeks to prevent the creation of a new dwelling which would result in a high risk of flooding. The condition also seeks to avoid harm to the character of the area and to protect the amenity of neighbouring occupiers. The condition is imposed in accordance with Policies LP5, LP12 and LP14 of the Huntingdonshire Local Plan to 2036.

Decision

1. The appeal is allowed and the planning permission Ref 23/02431/S73 for a proposed 2 storey side and rear extension at 10 Greenfields, St Ives, Cambridgeshire PE27 5HB granted on 24 June 2024 by Huntingdonshire District Council, is varied by deleting condition 4 and substituting it for the following condition:
 - 4) The proposed 2 storey side and rear extension hereby permitted shall be used only for the purposes of providing accommodation forming an integral part of the existing dwellinghouse within the site. It shall at no time be independently occupied or let or disposed of, or used to accommodate bed-and-breakfast guests or other short-term visitors paying rent or fees or be used for any commercial activity. All internal

access doors, between the proposed 2 storey side and rear extension and the rest of the host dwelling, shall remain as accesses and not be blocked up or have locks upon them at any time, to ensure full and free access to the entire dwelling is maintained as such in perpetuity.

Preliminary Matters

2. The description of the development permitted in the banner heading is taken from application reference 23/02431/S73, the subject of this appeal (the S73 permission). However, that wording does not include a description of the development itself. Rather, it refers to the variation of condition 2 of planning permission 18/00785/HHFUL (the original permission). The description of a development must accurately describe the act of development, not just a detail of which condition has been requested to be varied. Therefore, in my decision above, I have utilised the original description of development as set out within the original permission.
3. My decision above sets out that I am allowing the appeal. However, in this case, and despite the terminology that the appeal is allowed, this does not mean that I have concluded that the disputed condition 4 should not be imposed. This is because, in an appeal of this type, where a disputed condition is retained, but in a modified form, the appeal is allowed.

Background and Main Issue

4. In July 2018 the Council granted planning permission at the appeal site for the original permission. The development permitted was a proposed 2 storey side and rear extension. Condition 2 of the original permission set out that the development permitted should be carried out in accordance with the approved plans.
5. Subsequently, in June 2024, planning permission was granted without compliance with condition 2 to enable various amendments to the 2 storey side and rear extension: the S73 permission.
6. The S73 permission was subject a condition (condition 4) the effect of which is to ensure that the permitted 2 storey extension is occupied solely for the purposes integral to, and not independent from, the dwelling within the site (No 10 Greenfields). Altogether, the evidence before me indicates that the Council imposed the condition in the interests of certainty to define that the permission was not for a separate dwelling, or for a separately let dwelling, which would have different material planning ramifications including in respect to flood risk, living conditions and local character.
7. The appellant submits that condition 4 is unreasonable, irrelevant to the development permitted and unnecessary. Given this context, the main issue is whether condition 4 of the S73 permission, restricting that the 2 storey extension is occupied solely for the purposes integral to, and not independent from, the dwelling within the site, is reasonable, relevant to the development permitted and necessary.

Reasons

8. Condition 2 of the original permission required the permitted extension to accord with the details shown on plan 16/44/E1 Rev A. Amongst other matters, that plan showed that only a single front elevation access door would serve the appeal

property, and the extension included only an entrance hall, a study, a living area, bedrooms and a bathroom. Consequently, the approved layout was such that the extension and the remaining part of the house could not each be separately accessed whilst, served by no kitchen, the extension itself would not contain all the facilities necessary for day-to-day living.

9. Overall, the layout and design of the extension shown on plan 16/44/E1 Rev A is such that it clearly exhibited the character of forming part and parcel of an integrated single dwelling. Given this, and since the subdivision of a single dwelling into two separate dwellings requires planning permission, that the Council did not impose a condition on the original planning permission governing the extension's occupancy was entirely logical.
10. Permission granted under section 73 of the Town and Country Planning Act 1990 takes effect as a new, independent permission. It can be subject to the same conditions as the previous permission or, if appropriate to do so, and having regard to the 6 tests for their imposition, subject to new or modified conditions.
11. The plans which were approved under the S73 permission, notably 003 Rev B and 004 Rev A, show that the extension and the remains of the house could be independently accessed via separate front elevation doors. Containing 3 bedrooms, a living area, a kitchen, a bathroom and a W/C the extension alone would also include all the facilities necessary for day-to-day living. The extension the subject of the S73 permission would have a greater capability of being used in a separate and independent manner from the remains of the dwelling than was the case with the originally permitted extension.
12. This alone does not mean that the extension would necessarily be independently occupied. Whether the extension would be tantamount to an independent dwelling would, as a matter of fact and degree, also depend upon its functional linkages, not just its physical layout.
13. However, in this case, I am particularly mindful that there is no permission before me with a description clearly illustrating that the extension would be for the purposes of providing accommodation forming an integral part of the dwelling at No 10 Greenfields. In conjunction with the design and layout of the S73 permission extension, if a permission were to be granted for it without a condition requiring the accommodation to be used in an integral manner, I find that there would be too much uncertainty in respect of what had been permitted. In turn, there would be the risk that the extension could be utilised independently, the planning ramifications of which the Council did not fully consider or accept when it granted the S73 permission.
14. Therefore, the certainty that the disputed condition 4 provides that only a single dwelling is permitted at the site and, in turn, that the 2 storey extension is occupied solely for purposes integral to, and not independent from, the dwelling within the site, is reasonable, relevant to the development permitted and necessary.
15. In varying the S73 permission and substituting condition 4, I have used some wording which departs from that used by the Council. In the interests of precision, I refer to the extension rather than to an annex since an extension is what is described in the description of the development. I have also not used the term "ancillary" since this indicates the accommodation within the extension is for use in

some supporting role to the main house when it would simply form part and parcel of it.

Other Matters

16. The appellant has submitted to me their justification as to why alterations to the property, which have deviated from the original permission, have been carried out on site. However, my decision is based upon the merits of the case only, whether or not development was undertaken without compliance with approved plans has not weighed against the appellant or had a bearing upon my decision.
17. The appellant suggests that in certain alternative circumstances planning permission would not be required for the amendments made to the originally approved extension. However, I have been provided with limited information in relation to which circumstances these are. Consequently, this is a matter to which I can attribute only limited weight.
18. The matter of dispute between the appeal parties relates to condition 4 of the S73 permission. Therefore, this is the main issue in the appeal and is the matter which I must focus upon. I note that representations made on the planning application raised a number of other considerations. In making its decision on the planning application, the Council considered the amendments to the extension in regard to a range of matters including its effects upon the character and appearance of the area, the living conditions of neighbouring residents and parking. The Council concluded that the development was acceptable, and it granted planning permission. I have no substantive evidence before me which provides me with sufficient reason to come to a differing conclusion on these other matters.

Conclusion

19. For the reasons I have given, the condition in dispute is reasonable, relevant to the development permitted and necessary. As a result, it should be imposed. However, I consider that its wording should be modified. Therefore, I conclude that the appeal should be allowed with the condition deleted and substituted with the one in my decision above.

H Jones

INSPECTOR