



Appeal Decision

Site visit made on 27 May 2025

by **P Eggleton BSc(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 June 2025

Appeal Ref: APP/C2741/W/25/3362125

55 Morehall Close, York YO30 4WA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Galip Hazar against the decision of the City of York Council.
 - The application reference is 24/01873/FUL.
 - The application sought planning permission for conversion of outbuilding into ancillary living accommodation without complying with a condition attached to planning permission reference 18/01122/FUL, dated 11 July 2018.
 - The condition in dispute is number 3 which states that: The additional accommodation hereby approved shall only be occupied and used for purposes ancillary to the residential use of the dwelling known as 55 Morehall Close and shall at no time be used as an independent residential unit or as separate holiday let accommodation.
 - The reason given for the condition is: The site cannot accommodate a separate unit of residential accommodation without detrimental impact on the amenities of adjacent residents through additional activity and car parking requirements and the character and amenity of the area through the creation of a separate curtilage. As such it is considered that any proposal to use the development as an independent residential unit would need to be considered on its own merits with regard to the potential impact on neighbours.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect on the living conditions of the residents.

Reasons

3. The two storey dwelling has a driveway to the side which originally led to the garage. The garage was extended and permission was granted for its use as ancillary accommodation to the house. The rear garden has now been subdivided with a patio outside the rear of the main house and a separate, entirely enclosed, very small, covered outdoor area to the side of the garden building. Parking is to the side of the house and a small car was also parked across the property frontage. The appellant is seeking the removal of a condition that requires that the rear accommodation is only used for purposes ancillary to the residential use of the dwelling.
4. The house and its outbuilding are very closely related. The use of the rear patio to the house, by anyone other than someone closely associated with the residents of

the dwelling, would unacceptably reduce privacy within the house. It would also result in the house having no private amenity space. The enclosed small amenity space that has been created beyond the house patio, for the occupiers of the outbuilding, does not provide sufficient amenity space for those residents as it is small and entirely enclosed by high fences. The outbuilding has a very limited outlook and also overlooks the house patio. This would not be acceptable except for residents that also have access to the main living rooms of the house and its garden.

5. The outbuilding represents additional accommodation to that of the main house. It has a full range of facilities such as bathroom and kitchen but it has a very limited outlook, minimum space standards and inadequate separate amenity space. It is not suitable for use by anyone other than someone closely linked to the residents of the main house, such as its use by a family member, living in it somewhat independently but also as part of the family. Its use by someone not closely associated with the main residents would result in poor living conditions with regard to privacy, outlook and both internal and external space standards.
6. Overall, the use of the outbuilding for anything but ancillary accommodation would result in unacceptably poor living conditions for both sets of residents. A condition, as originally imposed, is therefore necessary in order to control the use. As I have found the condition to be necessary, I must also consider whether it meets the other tests set out in the National Planning Policy Framework 2024, such as being relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. I find that the condition satisfies these tests.
7. Whilst some elements of the condition, such as stating that the building should not be used as an independent residential unit or as a holiday let, may be more prescriptive than absolutely essential, its wording helps with understanding its requirements and helps to define what isn't consider to be ancillary uses. Given what is actually being sought by the appellant, which is an independent dwelling, I do not consider that the additional clarity provided by the specific wording of the condition is misplaced, in these particular circumstances.
8. The original permission to use the outbuilding was not for a separate dwelling and removing the restrictive condition is not the correct approach to seeking a separate dwelling. Such an application would require a fuller assessment of impacts, such as activity levels, parking, bin storage and bicycle storage. However, the suitability of living conditions for future residents would remain a critical consideration.
9. Overall, the condition, as originally imposed, satisfies the tests set out in the Framework. It is necessary to control the use in order to ensure that the living conditions of the residents of the property are satisfactory, now and into the future. I am not persuaded that the ongoing unauthorised use; or any other matters put forward, suggest that the condition should be removed. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR