



Appeal Decision

Site visit made on 24 June 2025

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

an Inspector appointed by the Secretary of State

Decision date: 07 July 2025

Appeal Ref: APP/N4720/W/25/3362345

Parkfield, 1A Bradford Road, Tingley WF3 1QN

- 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 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr & Mrs Sissons against the decision of Leeds City Council.
 - The application reference is 24/06775/FU.
 - The application sought planning permission for an outbuilding without complying with conditions attached to planning permission reference 23/04988/FU dated 20 October 2023.
 - The conditions in dispute are number 2 which refers to the approved plans; and number 4 which states that 'The outbuilding shall remain ancillary to the existing dwelling and shall only be used by the occupants of the dwelling and family members, for the lifetime of the development'. The reason for the condition is stated as 'In the interests of residential amenity'.
-

Decision

1. The appeal is allowed and planning permission is granted for an outbuilding at Parkfield, 1A Bradford Road, Tingley in accordance with the application 24/06775/FU without compliance with conditions numbered 2 and 4 previously imposed on planning permission reference 23/04988/FU dated 20 October 2023, subject to the following condition:
 - 1) The development hereby permitted relates to location plan WYK381370, block plan Revision A - 19 March 2025 and Proposed elevations and floor plans – August 2023.

Main Issues

2. The main issues are the effect on the living conditions of nearby residents with regard to noise and disturbance; and the effect on highway safety.

Reasons

3. The original permission accepted the construction of an outbuilding. It was not considered as a commercial building or for business purposes. The permission therefore accepted a building which was to be used in association with the dwellinghouse. This would by its nature, only accept uses ancillary to the lawful use of the dwellinghouse.

Condition 2

4. My understanding is that the building that has been built marginally differs from the approved plans. Although this is not raised as a concern, this proposal is able to

rectify that discrepancy. A revised plan was submitted, dated 19 March 2025, as part of the appeal process. The council have not commented upon it. It includes the removal of the existing garage and the creation of two parking spaces. As the updated plan represents the current position of the outbuilding; and the removal of the garage and the provision of parking as shown, would not normally require formal consent, no party would be prejudiced if this was accepted as the revised site layout. I believe that a separate application has already formalised the position of the building but includes a different parking layout. This permission would not alter that decision but would allow for either layout to be lawful. I therefore accept the proposal to revise condition 2.

Condition 4

5. Condition 4 requires that the outbuilding remain ancillary to the existing dwelling and shall only be used by the occupants of the dwelling and family members, for the lifetime of the development.
6. My understanding is that the building was permitted as a building to be used as a home gym. It was erected and used for the keeping of fitness equipment and used by the appellant to support her hobby as an athlete. This represents an incidental use to the dwellinghouse. It is suggested that the use has at times gone beyond this incidental use, but this has not been formally determined and it is not for this appeal to assess the lawfulness of what has gone before or is currently occurring.
7. The first part of the condition refers to the building remaining ancillary. It does not refer to a use, only that it remain ancillary, which would include it remaining linked to the occupation of the dwelling. As a use separate to the dwelling, that was not incidental to the residential use, would require planning permission, I am not satisfied that this part of the condition is necessary.
8. The second part of the condition relates to its use being limited to occupants of the dwelling and family members. As it lies within the curtilage of the dwellinghouse and a change of use was not sought by the original application, the permission effectively accepted that it could be used for incidental purposes, such as a home gym, home office or games room. Restricting its use to occupants of the dwelling and family members would seem to suggest that it would not be allowable to invite friends and guests to join the residents. The original permission followed a refusal for an outbuilding for use as a personal training business so it is likely that the purpose of the condition was aimed at preventing such a business use. However, taking the two elements of the condition together, a business use that was not operated by the occupants of the house would undoubtedly require a separate planning permission and as such, the condition would be unnecessary.
9. Preventing the occupants of a dwelling with a home gym from inviting their friends and training partners to train with them from time to time, would be very restrictive. The property has a large parking area. The building is well constructed. The garden area would not have such restrictions on it should the residents wish to use their garden, with friends, for such activities during appropriate weather. If it was used as a games room for example, it would similarly be unreasonable that the council controlled who was allowed to play within it with the dwelling's occupants. The second part of the condition is overly restrictive and unreasonable. This is particularly the case as the original permission would not allow for activities other than those that are incidental to the use of the dwellinghouse in any event.

10. Removing condition 4 would not change the original permission. There is nothing within the original consent that allows for a material change of use. I am satisfied therefore that the condition can be removed as it serves no particular purpose other than to highlight the limitations of the original consent, albeit that it goes beyond what is reasonable. A condition limiting the use of the building to uses that are incidental to the use of the dwellinghouse would have addressed the council's concerns and been more appropriate, notwithstanding that it would also not strictly have been necessary. As such, a revised condition may be helpful but not necessary. It would not therefore meet the tests for conditions set out in the National Planning Policy Framework. For the purposes of this appeal therefore, I am satisfied that condition 2 can be modified to reflect the corrected plan and condition 4 can be omitted. I must also consider whether any other conditions would be necessary.
11. The reason for the application was to address concerns relating to the appellants' use of the outbuilding. Based on the updated information, the concerns raised by various parties with regard to the level and nature of the use, appear to have been overstated. The council's concerns with regard to road safety do not appear to have had full regard to the scale of the space available within the site that already allows for the parking and turning of three vehicles, which could be increased to at least four; particularly given the good visibility from the access. There is also the availability of on-street parking immediately outside. The likely impact of the level of use described appears to be not dissimilar to the level of activity that would result from the use of the site by a large family.

Conclusions

12. A commercial use that results in a material change of use of the site would require formal consent and cannot be achieved by a variation of a condition relating to an alternative use, particularly as it would not have been clear to all third parties what was being sought within an application such as this. I am not prepared therefore, to impose new conditions, as suggested by the appellants that relate to a use that has no formal consent. The correct approach in this situation, if a material change of use is actually required, would be a full planning application. Whether the described use is of a level that results in a material change of use, rather than being de minimis or remaining incidental to the use of the dwellinghouse, is not a matter for this appeal. If it was found to not represent a material change of use, then it would similarly be inappropriate to add conditions. A formal determination in this regard would require a lawful development application.
13. This decision is not able to fully address the issues raised but I have allowed the appeal in order to formalise the layout; and delete condition 4 which is both unnecessary and unreasonable with regard to its restrictiveness. This decision creates a new permission but only accepts uses that are incidental to the use of the dwellinghouse. As the structure is already in place, the previously imposed commencement and materials conditions are no longer necessary.

Peter Eggleton

INSPECTOR