

Planning Committee

04 March 2026



Application No.	26/00011/RVC
Site Address	35 Park Road, Ashford, TW15 1EX
Applicant	Axmo North Limited
Proposal	Removal of Condition 4 (restricting the use of the extended property to Use Class C3 only) attached to planning permission 25/01088/HOU
Case Officer	Drishti Patel
Ward	Ashford Common
Called-in	Given the original decision was made by the Planning Committee this application is also being heard at the Planning Committee

Application Dates	Valid: 06.01.2026	Expiry: 03.03.2026	Target: Extension of time agreed to 06.03.2026
Executive Summary	<p>This application seeks removal of Condition 4 attached to planning permission 25/01088/HOU. The condition restricts use of the extended property at 35 Park Road, Ashford to Use Class C3 (dwellinghouse) only.</p> <p>The condition was imposed by the Council to ensure the approved extensions do not facilitate a materially more intensive residential use without further planning assessment, thereby safeguarding neighbouring amenity and local character.</p> <p>This Section 73 application proposes no physical changes. The sole consideration is whether removing the condition would result in development that remains acceptable in planning terms.</p> <p>The approved extensions significantly increase the dwelling's scale and potential intensity of occupation. Without the condition, the property could convert to a small HMO with up to six residents, under permitted development. This presents a realistic risk of increased noise, disturbance, refuse generation and parking pressure within a residential street characterised by family housing and limited on-street parking capacity.</p> <p>It is considered that the applicant has not demonstrated that removing the condition would avoid such impacts, nor that the condition fails the tests in NPPF paragraph 57. In the Local Planning Authority's opinion, the condition remains necessary, relevant, enforceable, precise, and reasonable in making the development acceptable.</p>		

	Officers therefore recommend refusal of planning permission to remove Condition 4. The condition should be retained to protect residential amenity, maintain local character, and ensure proper planning control over the intensity of residential occupation enabled by the approved development.
Recommended Decision	Refuse the application

MAIN REPORT

1. Development Plan

- 1.1 The following policies in the Council’s Core Strategy and Policies DPD 2009 are considered relevant to this proposal:
- EN1 (Design of New Development)
 - EN11 (Development and Noise)
 - CC3 (Parking Provision)
- 1.2 Also relevant is the following Supplementary Planning Document/Guidance:
- Supplementary Planning Guidance (SPG) on Parking Standards 2011
 - Design of Residential Extensions and New Residential Development SPD 2011
- 1.3 The National Planning Policy Framework (NPPF) December 2025 is also relevant.
- 1.4 On 19 May 2022, the Council agreed that the draft Spelthorne Local Plan 2022 – 2037 be published for public consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). The public consultation for the Pre-Submission Publication version of the Local Plan ended on 21st September 2022 and the local plan was submitted to the Planning Inspectorate on 25th November 2022.
- 1.5 An Examination into the emerging Local Plan commenced on 23 May 2023. However, it was paused to allow time for the new council to understand and review the policies and implications of the emerging Local Plan and to address the issues that were identified in the first week of the Examination, in particular flood risk and its potential implications in relation to the site allocation and delivery strategy of the plan.
- 1.6 On 12 December 2024, the Planning Inspectorate confirmed that the Local Plan examination would resume on the 27 January 2025. This has now taken place and the Examination closed on 18 February 2025. Adoption of the Local Plan by Council could be by March 2026 subject to the plan being found sound by the Inspector and public consultation undertaken on the Main Modifications (<https://spelthornelocalplan.info/evidence-base/>).
- 1.7 The NPPF policy states at para 49:

Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given).*
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

Section 38(6) the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the development plan (unless material considerations indicate otherwise) and not in accordance with an emerging plan, although emerging policies may be a material consideration.

1.8 The following policies of the Pre-Submission Spelthorne Local Plan 2022 – 2037 are of relevance:

- PS2: Designing Places and Spaces
- ID2: Sustainable Transport for New Development

1.9 At this stage, the policies in the Pre-Submission Spelthorne Local Plan carry limited weight in the decision-making process of this current planning application. The adopted policies in the 2009 Core Strategy and Policies DPD carry substantial weight in the determination of this planning application.

2. Relevant Planning History

2.1 The site has the following planning history:

Ref. No.	Proposal	Decision and Date
STAINES/FUL/P5285/2	Constructing an addition to garage with room over	Grant Unconditional - 26.06.1962
25/00176/HOU	Erection of a first-floor rear extension	Grant Conditional - 08.05.2025
25/00343/HOU	Conversion of a garage to a habitable room	Grant Conditional - 08.05.2025
25/00344/CPD	Certificate of lawfulness for the proposed use for a hip to gable loft conversion with a rear dormer	Grant Cert Lawful Prop Use/Dev - 08.05.2025
25/00491/PDH	Prior Approval Notification for a single storey rear extension extending 6.0	Prior Approval Not Required - 04.06.2025

	metres beyond the rear wall of the original house, with a maximum height of 2.76 metres and a height of 2.76 metres to the eaves	
25/01088/HOU	Garage conversion to habitable room, part single part two-storey side and rear extension, loft conversion with rear dormer and hip to gable conversion.	Approved by Planning Committee on 13 November 2025, subject to condition to retain as a family dwelling (Use Class C3).

3. Description of Current Proposal

3.1 This application seeks the removal of Condition 4 attached to planning permission 25/01088/HOU. No physical alterations are proposed as part of this Section 73 application. The sole issue for consideration is whether the removal of the condition would result in a form of development that remains acceptable in planning terms.

3.2 Condition 4 (as imposed)

“Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revoking and re-enacting that Order, the extended property shall be used only for purposes within Use Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.”

Reason: To ensure that the property is maintained as a dwellinghouse and to safeguard the amenity of neighbouring properties.

3.3 If Condition 4 were removed, the property could benefit from permitted development rights allowing a change of use from Use Class C3 (dwellinghouse) to Use Class C4 (small house in multiple occupation) without the need for a further planning application.

4. Consultations

4.1 No consultations are required.

5. Public Consultation

5.1 A total of 7 properties were notified of the planning application.

- 5.2 The Council has received 5 letters of objection to the application. The main issues raised can be summarised as follows:
- Overconcentration of HMOs in the area.
 - Loss of a family dwelling within an established residential street.
 - Increased noise, disturbance, and general activity associated with intensified occupation.
 - Increased pressure on limited on-street parking.
 - Harm to the character of the area.
 - Concern that the proposal represents an attempt to facilitate HMO use without proper planning scrutiny.

6. Planning Considerations

Background

- 6.1 At the time of the officer site visit, the property was under construction. In communication with the Local Planning Authority, the applicant has stated that they are implementing the Prior Approval application (25/00491/PDH) for the ground floor rear element and the Certificate of Lawfulness (25/00344/CPD) for the roof works and not the planning application (25/01088/HOU) relating to this current RVC application.
- 6.2 No first-floor extension relating to the application 25/01088/HOU was being constructed at the time of the visit. Roof works observed, including a rear dormer structure, were broadly consistent in scale and form with that shown on the approved Certificate of Lawfulness plans.
- 6.3 However, the site visit reveal that a single continuous single-storey rear extension had been constructed. This differs from the approved Prior Approval plans (25/00491/PDH), which showed two separate rear elements with a physical gap between them and no connection to the side elevation. The gap has not been implemented, and the rear elements have been joined. Parts of the previous rear extension appear to have been retained and built upon, with an increase in height to form a unified structure.
- 6.4 Internal works and alterations to ground floor fenestration which do not match any application plans were also observed. The applicant has been informed that planning permission is required for the as-built single storey rear extension.
- 6.5 As mentioned above, the planning permission with the condition to remove Permitted Development rights (25/01088/HOU) has not been implemented, and the requirements of the condition have not therefore been triggered. However, the applicant has nevertheless requested this current application to remove the condition to be determined.

Principle of the Section 73 Application

- 6.6 An application under Section 73 requires the local planning authority to consider only the question of the conditions to which a previous permission was granted. The applicant should demonstrate that the condition in question no longer meets the statutory tests, specifically that it is no longer necessary or reasonable, to ensure the resulting development remains acceptable in planning terms.

- 6.7 In this case, the original development was granted permission subject to Condition 4 being imposed. The condition was imposed to address concerns regarding the intensity of occupation enabled by the scale and form of the approved extensions.
- 6.8 The key issue is therefore whether the removal of the condition and the potential change to a small HMO could lead to a significant impact on the site and surrounding area.

Relationship Between the Condition and the Approved Development

- 6.9 While planning permission 25/01088/HOU related to physical works, those works are significant in planning terms because of the additional residential capacity they create. The approved development includes:
- Conversion of a garage to habitable accommodation.
 - A substantial part single and part two-storey rear extension.
 - A hip-to-gable roof enlargement and rear dormer.
- 6.10 Taken cumulatively, these works significantly increase the scale and floorspace of the dwelling. If the extended dwelling were to be converted to an HMO with up to six occupants, this could have consequent implications for neighbouring amenity in terms of activity levels, noise, and parking demand. The officer's report for the original application assessed parking and amenity impacts in accordance with Policies EN1 and CC3 on the basis of a multi-bedroom family dwelling. The Council's decision to restrict the use of the extended property to Class C3 ensured that the impacts of a potentially more intensive form of occupation on neighbouring residential amenity were not introduced without further assessment against EN1's requirement for a satisfactory relationship to adjoining properties.
- 6.11 The condition therefore relates directly to the development permitted, as it controls how the approved built form may be used as it allows the Council to fully consider the effects of any proposal for a small HMO on the amenity of neighbouring properties.
- 6.12 Policy EN1(b) of the Core Strategy requires development to achieve a satisfactory relationship to adjoining properties, avoiding significant harmful impact in terms of loss of privacy, daylight, sunlight or overbearing effect due to bulk and proximity or outlook. The original permission for the extensions was assessed on the basis that the property would function as a single dwelling house (Use Class C3). Condition 4 preserve this basis by ensuring that any change to a small HMO (Use Class C4), which could materially affect neighbouring amenity through increased activity, noise and parking demand would require planning permission and full assessment against Policy EN1 (and Policy EN11 – Development and Noise). Without the condition, such intensification could occur though permitted development right, bypassing the policy safeguards.

Tests for Planning Conditions

- 6.13 Paragraph 57 of the NPPF requires that planning conditions must be necessary, relevant to planning, relevant to the development, enforceable, precise, and reasonable.

Condition 4 meets these tests because:

- It is necessary to prevent unassessed intensification of use.
- It is relevant to planning, addressing amenity, (Policy EN1 (b) parking (Policy CC3) and noise (Policy EN11).
- It is directly related to the development permitted.
- It is precise and enforceable, referring to defined use classes.
- It is reasonable and proportionate in scope.

The applicant has not demonstrated that the condition fails any of these tests.

Necessity of the Condition

6.14 The condition is necessary to prevent foreseeable harm arising from the interaction between the approved extensions and permitted development rights. In the absence of the condition, a change of use to a Class C4 HMO within the extended house, could occur without further planning control. Potentially conflicting with Policy EN1's requirements for satisfactory relationships to adjacent properties. Such a change would be likely to result in:

- Increased comings and goings.
- Greater noise and disturbance.
- Increased refuse generation.
- Additional pressure on on-street parking.

6.15 These impacts have not been assessed as part of the original permission and would be experienced within a residential street characterised primarily by family housing and constrained parking conditions. Policy EN1 requires development to achieve a satisfactory relationship to adjoining properties avoiding significant harmful impacts. The condition ensures any intensification that could affect neighbouring amenity is properly assessed.

Reasonableness and Proportionality

6.16 Condition 4 does not prevent the reasonable use of the property as a home. It allows occupation as a single dwellinghouse in accordance with Policy EN1's standards for residential amenity. What it prevents is a material change to a more intensive form of residential use that was not assessed at the time of the original permission for the extensions or mitigated at the time of the original permission for the extension, and which could result in harmful impacts contrary to Policy EN1.

6.17 Given the residential context of Park Road, the limited parking provision and the scale of the extensions approved, it was considered reasonable and proportionate in accordance with the tests in the NPPF.

Equalities Act 2010

6.18 This planning application has been considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

6.19 The elimination of discrimination, harassment and victimisation; The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it; The fostering of good relations between persons who share a relevant protected

characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights Act 1998

- 6.20 This planning application has been considered against the provisions of the Human Rights Act 1998.
- 6.21 Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.
- 6.22 Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, i.e. peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.
- 6.23 In taking account of the Council policy as set out in the Spelthorne Local Plan and the NPPF and all material planning considerations, Officers have concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by the approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

Conclusion

- 6.24 It is considered that the condition restricting the use of the extended property to Use Class C3 was reasonable, proportionate, and necessary in accordance with the test set out in the NPPF. Its removal would prevent the Local Planning Authority from being able to fully consider the effects of any future proposal for an HMO for up to six residents, on the amenity of neighbouring residential properties. Accordingly, the application is recommended for refusal.
- 6.25 The proposal therefore conflicts with the development plan and with national policy seeking to ensure a high standard of amenity for existing and future residents.

7. Recommendation

REFUSE planning permission for the removal of Condition 4 attached to planning permission 25/01088/HOU, for the following reason:

Reason

The removal of Condition 4 would result in the Council not being able to control the effects of any future proposal for an HMO for up to six residents *(use Class C4) on amenity grounds. The condition is considered necessary, relevant, and reasonable to make the development acceptable in planning terms in accordance with paragraph 57 of the NPPF 2024.