



Appeal Decision

Site visit made on 11 October 2016

by Aidan McCooey BA MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 November 2016

Appeal Ref: APP/M3455/C/16/3148800 & 3148802

6 Wren View, Normacot, Stoke-on-Trent, ST3 4SZ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Nahida Bashir and Mohammed Iqbal against enforcement notices issued by Stoke-on-Trent Council.
 - The Council's reference is ENF/15/065.
 - The notices were issued on 3 March 2016.
 - The breach of planning control as alleged in the notices is without planning permission, the erection of a single storey rear extension on the land.
 - The requirements of the notices are:
 1. Demolish the single storey rear extension, the location of which can be seen hatched in red on the attached plan reference Plan1;
 2. Make good any damage to the existing property through compliance with requirement 1 above; and
 3. Remove from the land any materials arising from compliance with requirement 1 above.
 - The period for compliance with the requirements is 9 months from the date when this notice takes effect.
 - The appeals are proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed, the enforcement notices (EN) are quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a single storey rear extension on land at 6 Wren View, Normacot, Stoke-on-Trent, ST3 4SZ referred to in the notice, subject to the following condition:
 1. Within three months of the date of this decision, the grassed areas shown on the plan submitted with application 59297 shall be provided. These grassed areas shall be permanently retained.

Main Issue

2. The main issue is whether an appropriate level of usable outdoor amenity space will be provided to serve the dwelling as extended.

Reasons

Ground (a) and the deemed planning application

3. The property is a three bedroom house situated on a cul-de-sac of 8 properties within an established residential area. The front garden of the property has been hard-surfaced and is used for parking and bin storage. There is no boundary separation at the rear with the adjoining property no. 4. The extension that is the subject of the EN occupies most of the remaining rear garden area.
4. Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy states that development should contribute positively to the area and should have public and private spaces that are safe and attractive. Policy R16 of the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Supplementary Planning Document contains guidance on outdoor amenity space. It states that developments must provide some form of private or shared communal outdoor space. This space should be useable and should relate to the house type or occupiers. For instance a family sized 3 bedroom house is more likely to require a larger garden area than a small 2 bedroom house. The appropriate size of private external amenity space should be determined in relation to the provision and location of local open space.
5. The Council's sole concern in this case is the lack of private amenity space remaining to serve the house. There is no dispute that the remaining space is not safe and attractive. It is the quantum of rear amenity space of around 60 m² that is at issue. The relevant policy and Supplementary Planning Guidance does not specify a quantity of amenity space. The extension is unobtrusive as there is only a major highway on top of higher land to the rear. It does not significantly affect the character and appearance of the area.
6. The quantum of private amenity space is low but I attach weight to the following mitigating factors. A recently refused planning application for the retention of the extension proposed increasing the available amenity space at the front of the house. This would be achieved by providing a grassed area, whilst retaining two car parking spaces. The house is located in a small cul-de-sac and so the front garden would be a reasonably attractive amenity space. The appellants' daughter lives next door and as there is no separation between the gardens, it is available for the appellants use also. I appreciate that this could change with new ownership, but I must assess the situation as it stands. The Council drew my attention to the fact that planning permission has been granted for the change of use of vacant land next door to extend the garden of the appeal property. The Council states that this decision could impact on the current appeal. No details of whether the appellants own the land were provided, but it is an indication that it may be possible to increase the available amenity space. The available local open space in the area is also a factor to be taken into account, as stipulated in the guidance. There is easily accessible public open space within 300m of the site, as I observed during my site visit.
7. The appellants supplied evidence that there will be four occupants of the house. Their two sons have bought a house and will be moving out. Their daughters are not adults as the Council allege, being both under 17. Both of these statements are supported by documentary evidence. The appellants state that there is adequate space available for bin storage and drying of clothes, which is functioning well at the moment.

Conclusion

8. There is no significant public interest in this case; the only potential detriment being to the living conditions of the occupiers of the appeal property. I consider that in the light of the combination of factors identified above, the lack of amenity space is not sufficient to justify the withholding of planning permission in all the circumstances of this case. The provision of additional grassed areas to the front and rear of the property in line with the plans previously submitted to the Council can be controlled by condition. I conclude that the appeal on ground (a) should succeed and that the EN should be quashed. I do not therefore need to consider the appeal on ground (f) any further.

A L McCooey

Inspector