The Planning Inspectorate

Appeal Decision

Site visit made on 13 December 2016

by B.S.Rogers BA(Hons) DipTP MRTPI

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

Decision date: 23 December 2016

Appeal Ref: APP/V0728/C/16/3144245
1 Ripley Close, Skelton-in-Cleveland, Saltburn-by-the-Sea, TS12 2GL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Joseph Jefferson against an enforcement notice issued by Redcar & Cleveland Borough Council.
- The enforcement notice was issued on 7 January 2016.
- The breach of planning control as alleged in the notice is without planning permission the erection of a raised platform and an outbuilding.
- The requirements of the notice are (i) reduce the raised platform in its entirety to no higher than 300mm above ground level as shown in red at Appendix 1; and (ii) reduce the outbuilding in its entirety in height to no higher than 2.5m above ground level as shown in red at Appendix 1b.
- The period for compliance with the requirements is 90 days.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with variations.

The enforcement notice

1. The two requirements of the notice refer in (1) to "ground level as shown in red at Appendix 1" and in (2) to "ground level as shown in red in Appendix 1b" respectively. However, within the red lines on each plan, the ground level varies considerably, most noticeably in the steeply-sloping, southernmost part of the rear garden. It is therefore unclear to the recipient of the notice exactly what he must do to comply. Both parties have now agreed that the requirements may be varied, without injustice, so as to make it clear from where 'ground level' is to be measured. I shall vary the notice accordingly.

Other matter

2. Although the appeal was made solely on ground (a), the appellant claims in his representations that planning permission is not required for the development; this is, in effect, an appeal on ground (c). The works to form the raised platform and the summerhouse are clearly within the ambit of 'building, engineering, mining or other operations' which are defined as development S.55 of the 1990 Act. In my view, they do not benefit from permitted development rights as set out in Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development)(England) Order 2015 as the raised platform exceeds 300mm in height above ground level and the

outbuilding, which is within 2m of the boundary of the curtilage of the dwellinghouse, exceeds 2.5m above ground level. Accordingly, the development carried out required planning permission and an appeal on ground (c) would have failed.

The appeal on ground (a) and the deemed application

3. The appeal property is a newly-built detached house on a plot of land which is, for the most part, fairly level but slopes up steeply in the southernmost part of the rear garden to the rear boundary. Beyond this is a row of bungalows at a much higher level. A raised platform has been built across the whole width of the rear part of the garden, on 2 levels. The lower level, around 1m above the rear lawn, is flagged and the higher level, around 1.3m above the lawn, is timber surfaced; the timber outbuilding, in the form of a summerhouse is located on the higher level.

4. The Council's Core Strategy DPD, 2007 in Policies CS1 and CS6, and the Residential Extensions and Alterations SPD, 2013 seek a good and sustainable standard of development which, amongst other matters, has regard for the impact of development on its surroundings. Therefore, I consider the main issue in this case to be the impact of the development on the living conditions of neighbouring residents.

5. Save for the breezeblock retaining wall, which is capable of being screened by planting, the appearance of the outbuilding and platform is acceptable. However, because of its very significant elevation above the level of the neighbouring gardens, the use of the platform and the outbuilding, which has significant areas of glazing, would in my view give rise to a significant and unacceptable loss of privacy to the occupants of the dwellings on either side of the appeal property.

6. I have taken account of the position of outbuildings in each of these rear gardens and the possibility of screen planting. These are matters which either do, or could, mitigate the impact to some degree. However, there would still be clear views at a close distance into the rear garden and the rear bedroom windows of no.10 Chillingham Road and the rear windows of no.2 Ripley Close. This is much more significant than any overlooking which may occur from the bungalows to the rear, which are at a considerably greater distance.

7. The appellant clearly has the right to the beneficial use of his own garden but must have been aware of the steep slope, and the limitations to its usefulness, prior to his purchase.

8. On balance, I have come to the conclusion that the development unacceptably detracts from the living conditions of the neighbouring residents, contrary to the aims of the development plan. Accordingly, the appeal on ground (a) and the deemed application fail.

Formal Decision

9. The enforcement notice is varied:

   a) by deleting the requirements and replacing them with:

(1) Reduce the raised platform in its entirety in height to no higher than 300mm above the ground level of the rear lawn at its nearest point to the platform; and

(2) Reduce the outbuilding in its entirety in height to no higher than 2.5m above the ground level of the rear lawn at its nearest point to the platform.

b) by deleting Appendix 1b.

Subject to the above variations, the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

B.S.Rogers

Inspector