



Appeal Decision

Site visit made on 23 September 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th October 2019

Appeal Ref: APP/C1625/W/19/3231669

6 Etheldene Road, Cashes Green, Stroud GL5 4RS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr and Mrs Adam and Emma Soble against the decision of Stroud District Council.
 - The application Ref 18/2408/FUL, dated 7 November 2018, was approved on 24 January 2019 and planning permission was granted subject to conditions.
 - The development permitted is the conversion of residential property into two self-contained flats.
 - The condition in dispute is No 6 which states that: The development hereby permitted shall not be occupied until unrestricted access is available at all times for the occupants of the approved flats to the cycle storage, bin storage and amenity space via the shared side access with 4a Etheldene Road in accordance with drawing no. 1742_0411C, and this unrestricted access be maintained for the lifetime of the development.
 - The reason given for the condition is: To give the LPA control over the residential amenity space in relation to the subdivision of dwellings in accordance with Policy HC6 (1) of the adopted Stroud District Plan, November 2015.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The planning application was approved in January 2019. Condition 6 required access to be provided to the occupiers of the two flats to cycle and bin storage and the rear amenity space shown on approved plan ref 1742-0411c. The proposal, the subject of this appeal, seeks to vary the condition to exclude reference to the amenity space. The result of the variation would be to remove future occupier's access to the rear most part of the site. The rear patio area would be retained, for bin and bicycle storage, as shown on the lower ground floor layout plan.
3. A new dwelling has been erected to the south of the site. On my visit this construction was nearing completion. An outbuilding has also been erected to the rear of the new dwelling. This is within the lower part of the appeal site and includes stepped access into the rear patio area of the new dwelling.

Main Issue

4. The main issue is whether the condition is necessary and reasonable having regard to the living conditions of future occupiers and any relevant policies of

the development plan and the National Planning Policy Framework (The Framework).

Reasons

5. The appeal site is a semi-detached dwelling with a small rear patio. The site includes two external amenity areas: one behind the building and one on lower land behind the new dwelling and connected by a passageway.
6. The Development Plan for the district is the Stroud District Local Plan 2015 (LP). Policy HC6, in regard to the sub-division of dwellings, requires an provision of adequate amenity space. The requirement for external garden space is further discussed in the Council's Residential Design Guide. This explains that occupiers of dwellings should have an area of totally private space of at least 20 square metres. A flat is a dwelling and therefore would be subject to this requirement, unless material considerations indicated otherwise on a case by case basis.
7. The Council's guidance also states that 'where access to a garden is not available, for example in a block of flats, provision of balconies big enough to sit out on should be considered'. The proposal, as presented to the Council, included two areas of external space. This was discussed in some detail in the officer report. It was especially mindful of the site of the adjacent approved dwelling and its exclusion of the rearmost parcel of land. The officer report concluded that the proposed external space was small but complied with minimum requirements. The private amenity space was therefore proposed as an area shared between the occupiers of both flats. This would provide a useful area of outside recreation space for the benefit of future occupiers of the dwellings.
8. The Framework, at paragraph 55, explains that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable. Consequently, the imposition of a condition is not necessarily in response to a policy of the Development Plan to meet this requirement.
9. Accordingly, whether the Council considered that the proposal met the requirement by providing 40 square metres, or rather met its "minimum expectations", the requirement to provide the proposed external space was reasonable. Furthermore, its provision as part of the proposal was clearly a material consideration when the Council approved the scheme. I am therefore satisfied that the condition's requirement for the amenity space was necessary and reasonable. This condition therefore meets the tests as set out in the Framework.
10. For the above reasons the appeal is dismissed.

Ben Plenty

INSPECTOR