



Appeal Decision

Site visit made on 13 January 2020

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2020

Appeal Ref: APP/J4423/C/19/3233877

Land at 234 Barnsley Road, Sheffield S4 7AG

- 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 Basharat Iqbal Younas against an enforcement notice issued by Sheffield City Council.
 - The enforcement notice was issued on 10 July 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised alteration and change of use of the former garage outbuilding at the Land to form a self-contained living accommodation.
 - The requirements of the notice are:
 - i) Stop the use of the building at the Land for living accommodation; and
 - ii) Remove the following internal fixtures and fittings that facilitate the use of the building at the Land for living accommodation, including but not limited to kitchen units, oven, shower and bed.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act as amended.
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Decision

1. The appeal is dismissed, 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.

Appeal on ground (a), deemed planning application

Main Issues

2. The main issues in this case are: the effect of the development on the living conditions of neighbouring residents at 234 Barnsley Road, with particular regard to privacy; and whether or not the development provides for acceptable living conditions for its existing or future occupiers, with particular regard to privacy and outlook.

Reasons

Living conditions of neighbouring residents

3. 234 Barnsley Road is a substantial detached property which has been converted into five self-contained flats. It has a small enclosed back yard which takes access from the adjoining street, Scott Road and within which the

single storey former garage/outbuilding now converted into self-contained living accommodation is situated.

4. The unauthorised living accommodation has only one window which looks directly out onto the back yard and towards kitchen windows within the ground floor flats of No 234. Given the small distance between these facing windows, less than five metres at their closest, there is direct overlooking between these units of accommodation, and a consequent loss of privacy for the existing occupants of the ground floor accommodation within 234. Furthermore, given the proximity of the unauthorised unit to 234 and the means of access to it, the comings and goings of the occupiers of this accommodation and any visitors/deliveries to it, undoubtedly result in a further loss of privacy and disturbance to the existing occupiers of No 234.
5. I conclude that the development has a harmful effect on the living conditions of neighbouring residents at 234 Barnsley Road, with particular regard to privacy. There is therefore conflict with the development plan, and in particular with Policies H5 and H14 of the Sheffield Unitary Development Plan (adopted 1998) (UDP) which seek to ensure, amongst other things, that new flats/bed-sitters provide satisfactory living accommodation for their occupants and their immediate neighbours, including privacy.

Living conditions of existing and future occupiers

6. The unauthorised accommodation comprises a single room laid out with a fully fitted kitchen, a living/bedroom area which includes a double bed, cupboards and sofa. In addition, there is a small bathroom with toilet, sink and shower.
7. Apart from a small rooflight above the bed, the only window and outlook from the accommodation is the single window within the kitchen area which looks out onto the back yard. As set out in the first main issue above, the proximity of this window to the existing living accommodation at 234 means that there is direct overlooking between these properties and unsatisfactory levels of privacy for the occupiers of them.
8. In addition, the accommodation has only a single aspect with views restricted to the enclosed rear yard and rear elevation of No 234. From my own observations on my site visit, it was clear that by reason of overlooking, it is necessary to permanently have the blinds closed on unit's sole window to safeguard the privacy of its occupants. Consequently, with the blinds closed on the only window in the unit, there is no outlook available to its occupants. Moreover, it is necessary to have the lights on at all times, particularly to adequately illuminate the bedroom area. The lack of natural light, poor outlook and absence of privacy provide for unsatisfactory living conditions for the existing and future occupiers of the development.
9. I conclude that the development provides for unsatisfactory living conditions for its existing and future occupiers. There is therefore conflict with the development plan and in particular with Policies H5 and H14 of the UDP which seek to ensure, amongst other things, that new flats/bed sitters provide satisfactory living accommodation for their occupants, including privacy and light. I also find conflict with paragraph 127 of the National Planning Policy

Framework which seeks to promote health and well-being, with a high standard of amenity for existing and future users.

Other Matters

10. I have had regard to the appellant's offer to remove the existing parking space within the back yard which would enable this area to be utilised as a communal amenity space. I also recognise the improvements that have been made to the condition and appearance of the building as a whole. However, these considerations do not outweigh, nor would they mitigate the harm I have identified in the main issues above.
11. I appreciate that the site is well located in terms of access to shops and services and provides an additional unit of living accommodation for which there is a demonstrable need in the City. However, the social and economic benefits that are derived from this single unit are limited and do not outweigh the significant harm I have identified.

Conclusion

12. For the reasons given above and taking into account all other matters raised, the appeal on ground (a) must fail.

Human Rights

13. I have taken into consideration the Human Rights Act, 1998 which enshrines in UK law most of the fundamental rights and freedoms contained in the European Convention on Human Rights. I recognise that dismissal of the appeal would interfere with the occupier's rights under Article 8 and the appellant's rights under Article 1 of the First Protocol. However, given the harm identified and the reasons for issuing the notice, the action is in accordance with the law and pursues legitimate aims of regulating land use in the public interest and is necessary and proportionate to the situation.

Overall Conclusion

14. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Elizabeth Pleasant

INSPECTOR