
Appeal Decision

Site visit made on 18 February 2020

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 6 March 2020

Appeal Ref: APP/J4423/C/19/3239801

31 Hinde House Lane, Sheffield S4 8GY

- 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 Rasab against an enforcement notice issued by Sheffield City Council.
- The enforcement notice was issued on 13 May 2019.
- The breach of planning control as alleged in the notice is: Without planning permission, the provision of development comprising of an external stairway, raised platform and associated doorway created from the replacement at the first floor level of a window with a new doorway in the rear elevation of the building at the Land.
- The requirements of the notice are
 - i) Remove the unauthorised external stairway and platform in the rear elevation of the building (as shown in Appendix A to this Notice) from the Land: and
 - ii) Remove the door and doorway from the first floor in the rear elevation of the building (as shown shaded yellow in Appendix B to this Notice) from the Land: and
 - iii) Either block the doorway using materials that match the surrounding wall or replace the door by reinstating a window to the rear elevation similar in size, shape and position on the building as existed before the unauthorised development was undertaken(the window is shaded pink in Appendix B to this notice) and re-instate brickwork, similar to that already in the rear elevation, to fill around the re-instated window.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in sections 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under Section 177(5) of the Act as amended falls to be considered.

Decision

1. 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 Act as amended.

Procedural Matter

2. The site visit was arranged on an accompanied basis. As the Council was not in attendance at the appointed time, I carried out the visit on unaccompanied.. The appellant remained within the shop element of the building whilst I carried out the site visit to the rear. I do not consider that either party was prejudiced by the change in procedure particularly as no discussion of the merits of the development can take place irrespective of whether the site visit is accompanied or unaccompanied.

The ground (a) appeal and the deemed planning application

3. The main issue is the effect of the development on the living conditions of adjoining occupiers to the appeal building with regard to privacy and overlooking.
4. Although in close proximity of shops at ground floor level on Page Hall Road, Hinde House Lane is largely residential. The appeal building is a mid-terrace that adjoins No 29 which forms the end of the terrace. To the other side of the appeal building, there is a shared passageway. No 33 is to the other side. Although closed at the time of my morning visit, No 33 has a shop frontage. No 29 has an empty shop frontage with a to let sign. The buildings either side therefore appear to have some shop use with residual residential use.
5. A grant of planning permission ref 15/03072/FUL for the appeal building, permitted a change of use of the ground floor from dwellinghouse to shop use and alterations to the roof space and a rear dormer window to provide a self-contained flat. The approved plans show access to the upper floors being via a new door on the side elevation of the building within the shared passageway between the appeal building and No 33.
6. However, the appellant has instead constructed the development the subject of the notice which consists of an external steel stairway with a raised platform within the rear yard with a new door entrance at first floor level. A subsequent planning application to retain the external staircase was refused by the Council on the 18 September 2018 (Ref 17/03638/FUL).
7. The rear amenity spaces for the appeal building, No 29 and No 33 are very modest. The presence of a brick wall along the rear boundaries with larger buildings on Page Hall Road to the other side of the boundary does create a sense of enclosure and the Council describes the environment to the rear as poor. There are views from the platform and stairway of surrounding buildings including the first floor levels of William Hill and Lloyds Pharmacy although the first floor windows of William Hill are blocked up. As well as views of the rear amenity spaces of Nos 29 and 33, there are also views of parts of the building as No 33 has a side projection to the rear with a ground floor window and a first floor window.
8. There is direct overlooking from the staircase into the ground floor window with a kitchen sink and kitchen cupboards visible at the time of my visit. The window above is glazed. There is a modest grassed area to No 33 which at the time of my site visit, had a washing line with pegs. There are also views from the staircase and platform of a ground floor extension to No 29 with a glazed side window, side on to the external staircase as well as a door with the least outdoor space of the three buildings. The presence of the shared accessway and doors at the rear does allow the rear of the buildings to be used by occupiers.
9. I do consider that the development does harm the living conditions of the adjoining occupier with regard to overlooking and privacy as there are extensive views of the rear of the adjoining buildings.
10. The appellant has referred to providing covering under a condition attached to a grant of planning permission requiring that the stairs be covered to alleviate any overlooking or privacy issues. There is, however, limited information about

the nature, size or materials to be used for any covering or any evidence that covering would address these issues. Consequently, I cannot be satisfied that any covering could effectively mitigate the harm I have found.

11. The development is therefore contrary to Policy H14 of the Sheffield Unitary Development Plan which, amongst other things, refers to new development not depriving residents of privacy. It is also contrary to paragraph 127(f) of the National Planning Policy Framework which refers to providing a high standard of amenity for existing users. The appeal under ground (a) therefore fails and the deemed application for planning permission is refused.

The appeal under ground (f)

12. The appeal on ground (f) is that the requirements of the notice exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. With regard to ground (f), it is essential to understand the purpose of the notice. Under s173(4)(a) of the 1990 Act, one of those purposes is to remedy the breach of planning control by restoring the land to its condition before the breach took place. In the notice, the matters which constitute the breach of control are the external stairway, raised platform and associated doorway at first floor level.
13. The notice requires the removal of the unauthorised external stairway and raised platform and removal of the door and doorway from the first floor in the rear elevation of the building. The purpose of the notice is therefore clearly to remedy the breach of planning control by restoring the land back to its condition before the breach took place. However, the notice also allows for blocking up the doorway after the door's removal as an alternative to reinstating a window. The steps as set out in the notice are therefore necessary to remedy the breach of planning control and are not excessive. Although the appellant has referred to covering, I have already addressed this matter. As such, the ground (f) appeal must fail.

Other Matter

14. An objector to the earlier planning application to retain the development alleged that he owned part of the land upon which the external staircase has been. Whilst no evidence of ownership of the appeal site has been provided, I am informed that he was notified of the appeal as a neighbour and therefore had the opportunity to comment. I do not, therefore, consider that any party has been prejudiced due to the neighbour being notified of the appeal as a neighbour rather than in any other capacity.

Conclusion

15. For the reasons given, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed planning application.

E. Griffin

INSPECTOR