

Appeal Decisions

Site visit made on 26 May 2020

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

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

Decision date: 04 June 2020

Appeal Ref: APP/M3455/C/19/3238220

89 Regent Road, Stoke-on-Trent ST1 3BL

- 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 Act).
 - The appeal is made by Mr Kamar Mirza against an enforcement notice issued by Stoke-on-Trent Council.
 - The enforcement notice was issued on 4 September 2019.
 - The breach of planning control as alleged in the notice is the change of use of the first floor of the property to four self-contained residential units and associated elevation alterations.
 - The requirements of the notice are 1. Cease the use of the first floor of the property for residential purposes; 2. Remove all cooking, washing, shower and w.c. facilities along with all associated fixtures and fittings from the first floor of the property; and 3. Remove from the land any debris resulting from carrying out steps 1 and 2 above.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(e), (f) and (g) of the Town and Country Planning Act 1990 as amended. The prescribed fees have not been paid within the specified period so the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Appeal Ref: APP/M3455/W/19/3240975

89 Regent Road, Stoke-on-Trent ST1 3BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Kamar Mirza against the decision of Stoke-on-Trent Council.
 - The application Ref 63703, dated 5 March 2019, was refused by notice dated 9 August 2019.
 - The development proposed is change of use to create 4 no. apartments.
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Decisions

Appeal Ref: APP/M3455/C/19/3238220

1. The enforcement notice is varied by the deletion of '6 months' in section 6 of the notice and the substitution instead of '9 months'. Subject to the variation the enforcement notice is upheld.

Appeal Ref: APP/M3455/W/19/3240975

2. The appeal is dismissed.

Reasons

The ground (e) enforcement appeal

3. The Appellant has not submitted any evidence to support his claim that “The tenants have not been served with a copy of the notice”. The Council has explained that a copy of the enforcement notice was served on each of the occupiers of the four apartments, either by hand or by posting through the single letter box at the property. The Council has fulfilled its responsibilities under Section 172 of the Act and the ground (e) appeal thus fails.

The planning appeal

4. The main issue is whether the four apartments provide adequate living conditions for current and future occupants.

5. The Council has referred to a Government document ‘Technical Housing Standards – national described space standards’ (NDSS). The National Planning Policy Framework (NPPF) states that planning policies may refer to the NDSS where there is justification to prescribe internal space standards. There are no local planning policies that refer to the NDSS, which can therefore be afforded little weight. They do, however, offer a guide to what might be regarded to be acceptable space standards. The policy that has been referred to by the Council in the refusal notice, policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy (CSP), is a general policy that sets out planning principles but none of these mention or relate to adequate living conditions. Principally, therefore, the development will be judged on its merits and with particular regard to observations made at the site visit.

6. Two of the apartments, one of about 29.5 square metres and one of about 43 square metres, are more than adequate in size for either one or two occupants. The other two apartments, one of about 20.5 square metres and one of about 19 square metres, are inadequate in size. Within each apartment is a small shower room and a small cramped kitchen, and, given their limited overall size, the remaining space is a small bed-sit room barely large enough to accommodate a reasonable sized bed and necessary furniture. Each of these bed-sit rooms is cramped and lacking any storage so personal possessions of the single occupants was taking up almost all available space, making moving around the rooms difficult. Whilst current and future occupants can decide for themselves whether or not to rent one of these apartments a thrust of local and national policy is to improve the quality of residential schemes. The appeal development undermines this objective by offering sub-standard residential accommodation.

7. It is worth noting that the NDSS minimum floor area for a single person apartment is 37 square metres. One of the acceptable apartments falls short of this standard but not by much and its layout makes efficient use of the space. The two unacceptable apartments fall well short of the standard, one by almost 50%. This factor notwithstanding the apartments, given their limited size, provide cramped and inadequate living conditions for current and future occupants.

Conclusion

8. The development as a whole does not provide adequate living conditions for current and future occupants. Whilst CSP policy CSP1 does not specifically refer to living standards it does seek to ensure that new development is well designed. The appeal development is not well designed and therefore conflicts with CSP policy

CSP1. The scheme is contrary to the development plan and there are no material considerations to justify a conclusion that is not in accordance with the development plan. The planning appeal thus fails.

The ground (f) enforcement appeal

9. It is not the responsibility of the Council to suggest an alternative layout or the change of use of individual rooms in the requirements of the enforcement notice. Any alternative scheme must be put forward by the Appellant for consideration by the Council through the planning application process. It has been established through case law, which has been followed in other appeal decisions, that the Council can rightly seek the removal of all fixtures and fittings that have facilitated the change of use of the building that is the subject of the enforcement notice, in this case the first floor of the building. In this regard the requirements of the notice are not excessive and the ground (f) appeal thus fails.

The ground (g) enforcement appeal

10. The Appellant claims, with regard to the compliance period of 6 months, that "The tenancy agreements would not be up by then – at least 12 months is sought". Apartments such as these are normally let on six month shorthold tenancies and the Appellant has not submitted any evidence to suggest that they are let on tenancies of greater than six months. Breaches of planning control should be remedied as soon as is reasonably possible and six months, normally, would be a reasonable period. But the COVID-19 pandemic means that circumstances are not normal and it might be difficult for current occupants to find and secure alternative accommodation, and for the other requirements to be complied with, within six months of the notice coming into effect. In recognition of these abnormal circumstances the compliance period has been varied to be nine months. To this degree the ground (g) enforcement appeal succeeds.

John Braithwaite

Inspector