
Appeal Decision

Site visit made on 4 June 2020

by Elizabeth Hill BSc(Hons) BPhil MRTPI

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

Decision date: 17 June 2020

Appeal Ref: APP/M3455/D/20/3247201

269 Hartshill Road, Hartshill, Stoke-on-Trent ST4 7NQ

- 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 D Bibbey against the decision of Stoke-on-Trent Council.
 - The application Ref 64540, dated 11 October 2019, was refused by notice dated 26 November 2019.
 - The development proposed is a tiered garden and garden building.
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. The development has been partially completed. The tiers of the garden have been constructed but have still to be completed/landscaped and the garden building has been erected, although it is proposed to change the design of the front elevation in the application.

Main Issues

3. The main issues in this case are the impact of the proposed development on:
 - 1) the living conditions of the occupiers of 267, 271 and 273 Hartshill Road, in terms of outlook and privacy; and,
 - 2) the character and appearance of the area, which lies within Hartshill Conservation Area, and the setting of the listed buildings at Minton's Cottages, 267-281 Hartshill Road.

Reasons

Living conditions

4. The appeal property lies within a terrace of houses, known as Minton's Cottages. The rear of the houses has a yard which faces onto an alleyway. Beyond this the land slopes steeply upward and is used as garden areas to the properties. In the case of the host property, four tiers have been created in the garden area, which also slopes to the side, with the garden building having been erected on the top tier, extending across much of the width of the plot. Although it is disputed whether or not the land has been raised, the garden building is at a significantly higher level than other garden buildings, for example, the greenhouse and shed on the adjacent plot, making it a dominant feature in views from the rear of the terrace, especially in views from the yard

- and ground floor windows of 267, 271 and 273 Hartshill Road. The size, height and particular position of the building, despite it being some 24m in the appellant's estimate from the rear of the cottages, has an adverse effect on the outlook of these properties. The appellant has said that the use could be regarded as temporary but the application is not for a temporary use and the building is of durable construction, which might last for many years.
5. Whilst there are garden buildings in other gardens, these are generally smaller and on a lower level and therefore do not have such a dominant effect. The landscaping proposed by the appellant would be of 1.5m hornbeam trees on the first tier and laurel or yew on the second and third tiers with planting to mask the harshness of the front of the retaining walls to the tiers. Nevertheless, the landscaping would take some time to become established during which time the adverse impact would continue and the height and density of the new landscaping would exacerbate the impact of the new tiers, when viewed from the rear of the dwellings.
 6. The building currently has a door on the front elevation together with large sliding patio doors, facing the rear elevations of the properties at Minton's Cottages. The planning application proposes a change to this elevation, which would have two solid doors and a smaller-sized window. The smaller window would reduce opportunities for overlooking the rear yards and windows to living rooms and bedrooms at 267, 271 and 273 Hartshill Road, but despite the distance from the building to these properties, the impact on privacy would not be eliminated and the perception of overlooking from height, especially of the rear yards, would remain.
 7. The other buildings, like sheds and greenhouses, in the gardens to rest of the cottages would only be likely to be occupied for short periods for purposes like gardening. There are other garden areas to the cottages which are used for recreation and some local residents support the terracing and use of such areas. However, these recreational uses are likely to be more short-lived than the proposed use of the building as an office, which could be occupied for long periods of the day and into the night-time. Whilst there might be other dwellings which are illuminated and visible from Minton's Cottages at night, these are main dwellings which might be expected to be lit at night. The house at 263, Hartshill Road is a separate house adjacent to the terraced cottages, which has a garden terrace with heater. The appellant says that this development was granted planning permission. However, there is no building on this terrace and its use is likely to be more limited. In addition, being further away and screened by fencing, the views of the windows and yards to Minton's Cottages are more oblique than from the appeal proposal.
 8. Therefore I conclude that the proposed development would be harmful to the living conditions of the occupiers of 267, 271 and 273 Hartshill Road, in terms of outlook and privacy, and would be contrary to strategic aim SA14 and policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (2009) (CS) and policies R15 and R17 of the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010) (SPD), which foster good design, protecting privacy and outlook.

Character and appearance

9. The proposal lies within Hartshill Conservation Area (CA) and I am mindful of my duties under s72(1) of the Town and Country Planning (Listed Buildings and

Conservation Areas) Act 1990, which requires that decision-makers pay special attention to the desirability of preserving or enhancing the character or appearance of that area. The Council's Appraisal document for the CA notes the mixed residential character of the area, highlighting the importance within the area of the buildings by Gilbert-Scott which include the church/vicarage/school group and the groups of cottages along Hartshill Road, including Minton's Cottages and the adjacent and similarly-designed Campbell's Cottages and Institute. It is these characteristics which make the area distinctive and add to the significance of the CA.

10. The garden building and tiered garden would not be seen in public views in and around the CA and therefore would not have an adverse effect on its appearance. However, it is also necessary to consider the impact on the character of the CA. As already set out, the size and dominance of the building is not typical of garden buildings locally, which are generally smaller units of a more traditional style. I do not agree that the form of the new building represents a modern interpretation of such buildings, as home offices in gardens are new and have different characteristics in terms of form and function from traditional garden buildings. There are other ancillary buildings in the vicinity of the cottages such as the garage at 267 Hartshill Road but this single-storey building is sited close to the existing buildings and not in an elevated position, which is the case with the garden building. As already discussed above, the proposed landscaping would not be effective and provide effective mitigation in the short-term. Therefore, I consider that the proposal would fail to preserve or enhance the character of the CA. Since the proposal would not have an adverse effect on the appearance of the CA, I consider that the harm that the development would cause would be less than substantial.
11. Minton's Cottages at 267-281 Hartshill Road are Grade II Listed Buildings. The Council's view is that the garden areas have been added to the properties at some later stage and they do not form part of the curtilage of the cottages, since they are separated from them by the alleyway. Although the appellant states that ancillary buildings within curtilages are generally encouraged, no substantive evidence has been submitted which disagrees with the Council's view on whether the garden land is within the curtilage of the dwelling. As such, I consider that the policy approach to the listed cottages should be concerned with the setting of the cottages, rather than as part of the listed cottage itself. In this, I am mindful of my duties under s66(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, which requires me to have special regard to the desirability of preserving the buildings or their settings or any features of special architectural or historic interest which they possess.
12. The significance of the cottages, which have an individual and group value, relates to their architectural design, with features of Gothic style, and their historic connection to Minton and Gilbert-Scott increases their significance. The buildings are Grade II listed but this means that they are of national importance and afforded legal protection to the buildings themselves and their setting. The changes made to the rear of the cottages are relatively minor and many of their original features, such as the patterned roofs, window designs and chimneys remain, along with the general form of the buildings. Therefore, I consider that the significance of the heritage asset is not diminished by these changes.

13. The proposal has already been defined as a dominant building, out of keeping in its design with the more traditional garden buildings, relating poorly to the design of the listed cottages. Therefore, I consider that it has an adverse effect on the setting of the listed cottages, although the harm would be less than substantial.
14. Paragraph 196 of the National Planning Policy Framework (NPPF) requires that the less than substantial harm which I have found to the CA and the setting of the listed buildings is balanced against any public benefit of the proposal. Since the development would be for the private benefit of the occupiers of 269 Hartshill Road and no other public benefits have been claimed, I conclude that there are no public benefits which would outweigh the harm to the heritage assets. Therefore I conclude that the proposal would be contrary to strategic aim SA14 and policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (2009) (CS), policies HE3 and HE4 of the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010) (SPD), which protect and enhance historic heritage, and section 16 of the NPPF.

Conclusions

15. Therefore, for the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

E A Hill

INSPECTOR