



Appeal Decision

Site visit made on 22 July 2020

by Elizabeth C Ord LLB(Hons) LLM MA DipTUS

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

Decision date: 11 September 2020

Appeal A Ref: APP/M3455/C/20/3249012
118 Ashford Street, Stoke-on-Trent, ST4 2EN

Appeal B Ref: APP/M3455/C/20/3249250
120 Ashford Street, Stoke-on-Trent, ST4 2EN

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Dr M Patel against enforcement notices issued by Stoke-on-Trent Council.
 - The enforcement notices, numbered ENF/17/149 (Appeal A) and ENF/18/246 (Appeal B), were both issued on 17 February 2020.
 - The breach of planning control as alleged in both notices is: Without planning permission, the erection of a single storey rear extension.
 - The requirements of the notices are 1) Demolish in its entirety the unauthorised single storey rear extension. For the avoidance of doubt, the extent of the unauthorised single storey rear extension is identified on the attached plan reference "PLAN 1". 2) Remove from the land all materials and make good any damage to the existing building arising from compliance with requirement 1 above.
 - The period for compliance with the requirements of both notices is 9 months.
 - The appeals are proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decisions

1. It is directed that with respect to both appeals A and B the enforcement notices be varied by deleting the 9 month period for compliance and substituting a 12 month period. Subject to these variations the appeals are dismissed and the enforcement notices are upheld, and planning permission is refused on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

Application for costs

2. An application for costs was made by the appellant under his trading name of Sunshine Endeavours Limited against the Council. This application is the subject of a separate Decision.

Reasons

Ground (a) and the deemed planning application

Main Issues: The effect of the development on the living conditions of the

occupiers of adjacent properties and the host dwelling.

3. 118 and 120 Ashford Street are modestly sized, adjoining mid terrace houses in an area of similar properties, many of which, like the subject dwellings, are in multiple occupation. The frontages open directly onto the highway with no front amenity space and the rears contain small back yards.
4. The unauthorised rear extensions are mirror images of each other and provide an additional bedroom and on-suite to each of the dwellings. They protrude backwards and sideways from the rears of the dwellings' respective kitchen outriggers and extend almost to the rear and side boundaries of their yards. This leaves only a squeeze-way around them and a small open space adjacent to the kitchens and existing rear lounge windows.
5. Due to the excessive massing and close proximity of the developments to neighbouring habitable room windows and also to the host dwellings' lounge windows, the visual outlook from both is unacceptably impacted.
6. Moreover, despite the rear lounges of the host dwellings apparently facing south and benefitting from French Windows, the natural daylight reaching these rooms is reduced to inadequate levels by the extensions.
7. Furthermore, the extensions' side windows face directly onto the adjacent dwellings' outriggers and yards, very near to the boundary. Regardless of whether the facing neighbouring outrigger windows are obscurely glazed bathroom openings, the developments result in sub-standard privacy at least to the neighbouring yards, which provide the only outdoor amenity space to the neighbouring occupiers. Although these yards may already be overlooked by existing bedroom windows, the extensions significantly exacerbate the situation.
8. Additionally, this close proximity leaves the extensions themselves with inadequate privacy. Whilst the appellant suggests inserting one-way privacy glass to the lower parts of the extensions' side windows, this would not overcome the privacy issues to the neighbouring occupiers or to the occupiers of the extensions if the windows were opened.
9. Planning conditions would not reasonably overcome any of these impacts.
10. Although there is some discussion about design and amenity space within the Council officer's report, to which the appellant has responded, these matters are not reflected in the reasons for issuing the enforcement notice. Their detailed consideration by me would not alter my decision and therefore I have not dealt with them further.
11. For the reasons set out above the developments do not accord with Policy CSP1 of the Newcastle-Under-Lyme and Stoke-on-Trent Core Spatial Strategy (2006-2026), which requires new development to be well designed. Nor do they conform to the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document 2010, Policy R15 of which requires reasonable levels of privacy to habitable rooms, and Policy R19 of which seeks to ensure reasonable outlook and adequate levels of natural light to dwellings, amongst other things. Furthermore, the extensions fail to comply with the National Planning Policy Framework 2019 which requires development of poor design to be refused.

12. There is a reasonable possibility that the appellant would proceed to build smaller rear extensions in accordance with the 2015 General Permitted Development Order, which is his fallback position. Whilst the height of these extensions might be slightly greater than the unauthorised developments, the footprints would be considerably less. Overall, the fallback position would be more desirable than the unauthorised developments and therefore is no justification for granting permission for the developments.
13. The appellant has indicated that he recently acquired one of the adjacent properties, namely 116 Ashford Street and that the existing boundary wall with number 118 could be removed to provide a single large shared communal area. However, this has little bearing on the harm discussed above.
14. The appellant has cited various other rear extensions in the vicinity, and I viewed a number of such developments on my site visit. However, whilst consistency in planning is an important consideration, the limited information before me does not demonstrate that these other extensions are directly comparable. In any event, the existence of what may be poorly designed development elsewhere, does not justify further poorly designed development. Consequently, this appeal is determined on its own particular merits.
15. Whilst I acknowledge the apparent support for the extensions, the apparent lack of objections, and the appellant's status as an accredited landlord, this does not outweigh the resultant harm.
16. Nonetheless, s177(1)(a) of the 1990 Act provides that planning permission may be granted in whole or in part for the matters stated in the enforcement notice as constituting a breach of planning control. Consequently, consideration must be given to whether planning permission could be granted for any smaller schemes that are before me, albeit this would be subject to such schemes being classed as part of the development.
17. The appellant has submitted amended plans for smaller, revised schemes as alternatives to what has been built. One such scheme is based on the larger rear home extensions for which prior approval under that General Permitted Development Order is required. Such approval was sought and refused by the Council.
18. Whilst these alternatives may fall under the description set out in the enforcement notices ie "*the erection of a single storey rear extension*", on considering the submitted plans it is clear that they all involve substantial work to reduce the size of the building. There is no obvious alternative to the unauthorised developments. Neither of the on-suite bedroom extensions could readily be severed into smaller parts without considerable work being undertaken, as the on-suite bedrooms each occupy the entirety of the respective developments.
19. Consequently, the works required would result in different schemes to what is built, and so these alternatives do not form part of the matters stated in the enforcement notice and cannot benefit from s177(1)(a). However, I note that a separate planning appeal is proceeding under s78 of the 1990 Act for another scheme.
20. In conclusion, taking account of all matters raised, the applications under ground (a) and the deemed planning applications fail.

Ground (f)

21. Whilst the reasons for issuing the enforcement notices relate to injury to amenity, the purposes of the enforcement notices are to remedy the breaches of planning control as full demolition is required. As the extensions have been built without planning permission, it is not excessive to require their demolition, removal of materials and the making good of damage to the existing buildings to remedy these breaches.
22. For the above reasons, the applications under ground (f) fail.

Ground (g)

23. The appellant has indicated that the existing occupiers of the dwellings have lived there since 2018 and they have renewed their tenancy agreements to 30 June 2021 when they are due to complete their studies. In order to avoid undue inconvenience or hardship to the existing tenants it is reasonable to extend the time period for compliance from 9 months to 12 months. The longer 18 month period requested by the appellant is unfounded as the arrangements needed to comply could be made during the tenancies with a start date shortly thereafter.
24. On this basis the appeals succeed on ground (g) and the notices are accordingly varied.

Elizabeth C Ord

Inspector