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## Appeal Decision

Site Visit made on 29 October 2021

**by G Robbie BA(Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12<sup>th</sup> November 2021**

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**Appeal Ref: APP/H0738/W/21/3282296**

**27 Crayke Road, Stockton-on-Tees TS18 4EY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Mr Daniel Adams against the decision of Stockton-on-Tees Borough Council.
  - The application Ref 21/0472/RET, dated 18 February 2021, was approved on 16 July 2021 and planning permission was granted subject to conditions.
  - The development permitted is retrospective application for the erection of detached garage within rear garden (Demolition existing garage).
  - The condition in dispute is No. 03 which states that:  
*Notwithstanding the submitted plans within 2 months of the date of this permission the existing window on the western side elevation shall be fitted with obscure glazing to at least obscuration factor 4. The windows shall thereafter be maintained as such and be retained for the lifetime of the development.*
  - The reason given for the condition is:  
*In the interests of the amenity of the neighbouring properties.*
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### Decision

1. The appeal is allowed and the planning permission Ref 21/0472/RET for retrospective application for the erection of detached garage within rear garden (Demolition existing garage).at 27 Crayke Road, Stockton-on-Tees TS18 4EY granted on 16 July 2021 by Stockton-on-Tees Borough Council, is varied by deleting condition 03.

### Background and Main Issue

2. Planning permission was granted retrospectively for the erection of a detached garage at the rear of the appeal property, the description of which I have taken from the Council's notice of approval rather than the original planning application form in the interests of consistency. The garage is positioned directly adjacent to the side garden boundary with No. 25 and the rear garden boundaries of properties on Kilburn Road. On the side of the garage facing into the appeal site's rear garden, and towards the neighbouring property at No. 29, there is a window and a glazed door.
3. The approval was subject to three conditions, of which condition 3 is the subject of this appeal. The disputed condition is set out in full in the heading above and relates to the side window as described.
4. The main issue therefore is whether the disputed condition is reasonable and necessary in the interests of the living conditions of occupiers of neighbouring properties, with particular regard to those at No. 29 in terms of privacy.

## Reasons

5. The window in the side (west facing) elevation of the garage faces into the appeal property's rear garden. The garden at the appeal property, and also that at No. 29, lies below the internal floor level of the garage. As a consequence, the garage and users of it enjoy an elevated position above the surrounding ground level. However, those levels generally fall away from the rears of the houses so that they too have a slightly elevated position above their respective and neighbouring rear gardens.
6. Between the appeal site and No. 29 is a roll-top timber panel fence. From garden ground levels the fence is a reasonable height and prevents direct overlooking and intervisibility between gardens. The elevated position of the garage, whilst reducing the screening effect of the fence, does not completely eliminate its ability to screen, at least partially, direct views into and across the main body of the neighbouring garden.
7. The side facing window is situated in the region of 4 metres from the boundary between Nos. 27 and 29. Standing at the garage window, it is possible to look across towards the neighbouring property and back towards its rear elevation where there are also windows. There is, as a consequence, a degree of intervisibility between the garage and house windows at No. 29 and it is likely that persons stood at the windows at the same time would be able to see each other.
8. However, the views aren't directly towards each other but are instead offset from each other and across a longer distance than those directly between garage window and garden. Only when stood at the window or the rear corner of the garage is it possible to see back through the window towards the rear windows of No. 29. In reverse, it is likely that only very limited internal intervisibility would be possible. Furthermore, as the garage window is located towards the rear corner of the building the intervening distance between windows is at its greatest.
9. There is a lesser distance from the window directly towards the main body of the neighbouring property's rear garden but, despite the garage's elevated floor level, the existing timber fence intercepts direct views towards the garden of No. 29. Foliage on shrubs and trees at the neighbouring property will come and go dependent upon season, but the fence provides the main, and a sufficient, degree of intervention into the outlook between the garage and the rear (and rear garden) of No. 27. Although the intervening distance is not substantial, the degree of intervisibility would not be harmful, or otherwise uncommon or unexpected within a residential setting such as this.
10. Local Plan (LP) policies SD3 and SD8 both seek to ensure that development is of the highest standard. Amongst other things, they state that proposals must avoid significant loss of privacy and amenity for residents of neighbouring properties (LP policy SD3) and respond positively to privacy and amenity (LP policy SD8). The National Planning Policy Framework (the Framework) seeks to ensure that developments, amongst other factors, secure a high standard of amenity.
11. The garage is of a scale and form not uncommon within a residential context such as Crayke Road. The exact nature of the garage's use is not a matter before me, whilst the window is sufficiently off-set and set away from windows

at the rear of No. 29 to ensure that the removal of the disputed condition would not result in a significant loss of privacy or amenity to residents of the neighbouring property. For the reasons set out, the disputed condition is not necessary in the interests of the living conditions of occupiers of neighbouring properties and its removal would not be in conflict with LP policies SD3 or SD8 or the Framework.

### **Other Matters**

12. I have noted concerns raised regarding the scale of the garage and its physical presence at the rear of the appeal site. However, although it is elevated slightly above the garden ground level, it does not appear to be excessively so. The garage may be larger than that which it replaced, although I only have very limited information that that is indeed the case, but the orientation of its sloping roof and hipped front are such that its ultimate height is recessive.
13. Whilst the disputed condition relates to the garage's window, and not to the principle of the garage itself, the nature of an appeal made under sections 78 and 79 of the Town and Country Planning Act 1990 (as amended) is such that the original permission is at risk. However, I am satisfied that the garage is not so large, so close to the rear of No. 29, or so dominant in views from the rears of Nos. 25 and 29, as to justify reaching a different conclusion to that reached by the Council in respect of the principle of the development.

### **Conclusion**

14. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be allowed and the planning permission previously granted is varied by the deletion of condition No. 03.

*G Robbie*

INSPECTOR