



Appeal Decision

Site visit made on 8 February 2022

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 19 August 2022

Appeal Ref: APP/M4510/C/21/3286396

7 Rockcliffe Gardens, Newcastle upon Tyne, Tyne and Wear NE15 7TR

- 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 Miss Keighley Rush against an enforcement notice issued by Newcastle-upon-Tyne City Council.
 - The enforcement notice is dated 19 October 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection and attachment of an extension (Extension B) of approximately 2900mm in depth to the rear of an existing rear extension (Extension A) of approximately 4725mm in depth as shown on Plan 2 attached to the notice.
 - The requirements of the notice are: (i) Remove Extension B as referred to in paragraph 3 of the notice in its entirety. (ii) Remove from the land all materials, rubble or machinery used in connection with or resulting from compliance with step (i) above.
 - The period for compliance with the requirements is four months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, 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 falls to be considered.
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 07 March 2022.

Decision

1. The appeal is allowed, the enforcement notice is quashed, and planning permission is granted on the application deemed to have been made under s.177(5) of the 1990 Act as amended for the erection and attachment of an extension (Extension B) of approximately 2900mm in depth to the rear of an existing rear extension (Extension A) of approximately 4725mm in depth at 7 Rockcliffe Gardens, Newcastle upon Tyne, Tyne and Wear NE15 7TR, subject to the following condition:
 - 1) The external surfaces of the garden elevation of the development hereby permitted shall be finished in render and painted white.

Main Issues

2. The main issues are the effect of the development on:
 - the character and appearance of the surrounding area; and

- the living conditions of neighbouring residents, with particular regard to daylight and outlook.

Reasons

Character and appearance

3. The appeal site is a two storey semi-detached property located in an area of similar dwellings. Plans were previously submitted (ref: 17/00405/NPA) for a single storey rear extension to a depth of 5400mm. However, as built, the single storey rear extension (Extension A) that is attached to the back of the main house projects by approximately 4725mm. The development (Extension B) that is the subject of the enforcement notice adjoins Extension A. It steps down from the roof height of Extension A and steps in from its garden elevation. As a result, when viewed from the garden of No 7, it appears subservient to and in keeping with the form of the existing dwelling.
4. Extension B projects to a depth of around 2900mm beyond the back elevation of Extension A and extends to the rear boundary of the property. As a result, it is visible from the path behind No 7 which runs through Denton Burn Dene, an area of public open space. From this vantage point, the upper part of the brick rear wall of Extension B can be seen above the boundary fencing.
5. The ground level drops notably between the level of the rear garden of No 7 to the Denton Burn Dene path. This factor results in the rear extension appearing more prominent than it would if it were on a level with the path. The extension is also more obvious due to the removal of the hedging at the back of No 7.
6. Extension B is subservient to Extension A and the main dwelling, as required by the Council's Householder Design Guide. Were the hedging to be reinstated, I consider that Extension B would go largely unnoticed to those using the public space. It is likely that the remainder of the hedging is screening other rear developments that would have an equal or greater effect on the visual amenity of the open space. The presence or otherwise of the hedging appears to be outside the appellant's control, and so it would be unfair to penalise her for that situation.
7. Moreover, although the unauthorised development is visible to the public, it has a limited impact on the open space as a whole, and only affects views for a short while as people are walking past. Its visual impact is not so harmful as to justify the withholding of planning permission for an otherwise acceptable development. Furthermore, had Extension A been built out to the full depth of 5400mm, with a greater height and width, it is likely that it would have been more prominent than the extensions as built.
8. I therefore find that Extension B does not materially harm the character and appearance of the surrounding area. No conflict arises with Policy DM20 of the Newcastle upon Tyne Development and Allocations Plan 2015-2030 (DAP), which seeks to ensure good design, or with Policy CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2010-30 (CS), which promotes good place-making through the delivery of high quality and sustainable development.

Living conditions

9. Although it is not mentioned in the enforcement notice, the Council in their statement of case raise issue with the effect of the development on outlook and daylight at the adjoining 8 Rockcliffe Gardens. This is with particular regard to the ground floor window next to Extensions A and B, which serves a habitable room.
10. On my visit, I had the opportunity to view the unauthorised development from No 8. I saw that Extension A introduces a blank wall of substantial height and depth immediately next to the ground floor window at No 8. It intrudes on the natural line of sight from that window, and it is likely that it has curtailed any outlook over the rear plot of No 7 that was previously available.
11. The rear elevation of No 8 faces south-east, and so is likely to receive direct sunlight for part of the day. However, it is likely that there has been some reduction in daylight to this window due to the presence of Extension A.
12. Extension B is set away from the window by approximately 4725mm, the length of Extension A, and steps down in height. Under these circumstances, I am satisfied that any additional harm to outlook and daylight caused by Extension B has been minimal in comparison to the effects of Extension A.
13. In the absence of any substantive evidence to the contrary, I find that the unauthorised development does not materially harm the living conditions of residents at No 8. It therefore complies with CS Policy CS14, which promotes wellbeing and health, and DAP Policy DM23, which seeks to ensure a good standard of residential amenity for existing and future occupants of land and dwellings, including standards of daylight and outlook.

Conditions

14. The Council have not suggested any conditions. However, as the garden elevation of the development was unfinished at the time of my visit, a condition relating to external materials is appropriate in the interests of character and appearance.

Conclusion

15. For the reasons above, the appeal is allowed, the enforcement notice is quashed, and the deemed planning application is granted.

Elaine Gray

INSPECTOR