



Appeal Decision

Site visit made on 2 August 2023

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 29th August 2023

Appeal Ref: APP/B3410/C/22/3312430

**The land known as 1 Northfield Road, Burton upon Trent, Staffordshire
DE13 0TG**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by K Karimi against an enforcement notice issued by East Staffordshire Borough Council.
- The notice was issued on 18 October 2022.
- The breach of planning control as alleged in the notice is Without planning permission, the installation of 2 dormer roof extensions to the rear of the dwelling house.
- The requirements of the notice are
Permanently remove the 2 dormers installed to the rear of dwelling house on the land.
Reconstruct the roof with roof tiles which are of a similar appearance to those used in the construction of the remaining development of the dwelling
- The period for compliance with the requirements is 4 months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Background and Preliminary Matters

2. The reasons for issuing the notice refer to a number of policies. The Council's statement sets out the principles of various policies but does not indicate which elements of those policies apply to the development. There is also no distinction drawn as to which policies apply to the two different reasons for issuing the notice. I have therefore referred to which policies I consider to be most relevant to the main issue in each case.

The Main Issues

3. The main issues are (i) the effect of the development on the character and appearance of the streetscene and (ii) upon the living conditions of nearby occupiers at 27 Longmead Road.

Reasons

Character and Appearance

4. The appeal site is located on a prominent corner location of Northfield Road and Longmead Road and is an end of terrace property that has been extended and includes a two storey extension with new roof which is closest to Longmead Road.

5. The character of the area is largely residential with dwellings that are set back from the road with front gardens. The corner location of the appeal dwelling results in a modest triangular garden to the rear. No 27 Longmead Road, which is a semi-detached dwelling shares a side boundary at the rear with the appeal property
6. The development consists of 2 dormer rear roof extensions with the dormer closest to Longmead Road being located on the new extension roof. However, the rear location of the dormers means that the only public views of the development are when approaching past No 27 Longmead through the gap in built development. The distance from the pavement, the angle of the view and the context of that view between other built development means that what can be seen is limited.
7. Views of the dormer furthest from the road is largely blocked by the other dormer. Although most of the other dormer is visible, I do not share the Council's view that the rear dormers are highly visible from public vantage points on Longmead Road. I do not therefore find that the level of harm to the streetscene is sufficient to justify a refusal of planning permission.
8. Whilst there is some policy conflict with Policy SP24 and Policy DP1 of the East Staffordshire Borough Council Plan (the Local Plan) which refer to reinforcing character and high quality design that conflict does not arise in relation to the Council reason for refusal which refers to public vantage points on Longmead Road and the street scene for the reasons given.

Living Conditions

9. At the rear, No 27 also has a modest garden due to the corner location. Photographs provided show the view of the dormers from the rear of No 27. Whilst the outbuilding at No 27 does take up space in the rear garden, the development is clearly visible from the garden as shown in the photographs provided. The photographs show the proximity of the development to the garden of No 27 and also the proximity of the 2 dormers to each other.
10. Although the appellant states that each dormer is around 9m³, the proximity, height, and projection with windows in relation to no 27 means that the development is overbearing despite its size. It creates an unacceptable sense of enclosure in a modest garden space. The dormers are not comparable with the first floor windows in terms of location, height, design or prominence. Although the dormers are separate, their proximity to each other adds to the sense of enclosure and overbearing nature of the development.
11. The appellant has proposed that the windows to the dormers be obscure glazed and non-opening. The Council's report for the previous planning application refers to the windows serving a bedroom window. Whilst the appellant may not currently use the rooms as bedrooms, any grant of planning permission would run with the land and a condition would still be in force after the appellant is no longer in occupation. Such an arrangement would not provide satisfactory living conditions for people using the internal space. In any event, the perception of overlooking and the harm arising from the dormers themselves in terms of being overbearing would remain.

12. The appellant has referred to an appeal decision¹ which he considers to be relevant. With regard to living conditions, the decision refers to the neighbouring properties having large gardens and separation distances not resulting in loss of outlook. I have no information that shows that the dormers approved in the appeal decision are comparable to the development before me in terms of appearance, design, location or relationship with neighbouring properties. It remains the case that each appeal has to be considered on its own individual merits.
13. Permitted development rights cannot be applied retrospectively and the appellant accepts that the development was built after the extension and new roof were added. However, the appellant considers that both dormer elements can now benefit from permitted development due to their cubic capacity. This is disputed by the Council as the appellant has not referred to the enlargement of the roof space that has already occurred.
14. On the limited information before me, I am not satisfied that the dormers could have been built under permitted development rights and the appellant has not chosen to pursue that option under ground (c) as part of this appeal. Whether or not other properties in the vicinity choose to exercise permitted development rights is a matter for them. An appeal under ground (a) is a request for planning permission and includes in this case an assessment of living conditions.
15. For these reasons, I conclude that the development significantly harms the living conditions of the occupiers of No 27 Longmead Road. The development is therefore in conflict with Policy SP24 of the East Staffordshire Borough Council Local Plan (the Local Plan) which refers to development not being harmful to the amenity of an area. It is also in conflict with Policy DP1 of the Local Plan which states that regard must be had to the impact of development on the amenity of occupiers of nearly residential properties in terms of outlook and privacy. It is also contrary to Policy DP3 which refers to development not having an unacceptably overbearing impact on adjacent dwellings and the principles of the East Staffordshire Design Guide. It is also contrary to Paragraph 130 of the National Planning Policy Framework which refers to development having regard to amenities of residents.

Conclusion

16. I have not found harm to the character and appearance of the area of the streetscene but I have found harm to the living conditions of the occupiers of No 27 Longmead Road. There are no material considerations before me which lead me to determine the appeal other than in accordance with the development plan policies.
17. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

E Griffin

INSPECTOR

¹ APP/K3415/D/21/3279682