



Appeal Decision

Site visit on 3 November 2003

by **J M Turner LLB SOLICITOR**

an Inspector appointed by the First Secretary of State

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DATED: **13 NOV 2003**

Appeal ref: APP/L2820/C/03/1122100

Land at 127 Stamford Road, Kettering, Northants NN16 8YA

- The appeal is by Mr A Singh. It is brought under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice served by the Kettering Borough Council.
- The notice is dated 18 June 2003.
- The breach of planning control alleged in the notice is without planning permission, change of use of an outbuilding used for ancillary storage to use as a dwelling.
- The requirements of the notice are to -
 - (i) cease the use of the building for human habitation, and
 - (ii) permanently remove the bed, cooking equipment and fridge from the land.
- The periods for compliance with these requirements are, respectively, three months and four months.
- The appeal is proceeding on ground (a) set out in section 174(2) of the 1990 Act.

Summary of decision:

The notice is upheld, the appeal is dismissed and planning permission is refused on the deemed application.

Assessment - ground (a) and the deemed application

1. The appeal building is a brick shed which has been converted, fairly minimally, into a small unit of two storey residential accommodation. It lies in an older area of grid pattern terraced houses, at the bottom of what was the rear garden of an end of terrace property in use as flats.
2. In those circumstances, I consider the key issue to be determined in the case is the impact on the amenities of people living in adjoining dwellings, in terms of overlooking and loss of privacy. The importance of those considerations is emphasised in the local plan policies cited by the Council in their representations, specifically Policy 45 - Conversion of non-Residential Property and Policy 47 - Residential Amenity.
3. Because the conversion does not respect the prevailing layout of dwellings in this tightly developed area, but is indeed directly in conflict with it, its bedroom windows permit very immediate overlooking of the rear of 127 Stamford Road, and the garden and rear

windows also of the adjoining houses nos 129 and 131. The Council indicate that the maximum distance at issue is no more than 15 m. That accords with the impression I gained on inspection, with the nearest relevant overlooking distances significantly less. My judgement is that the adjoining residents are thereby exposed to overlooking and loss of privacy to an unacceptable degree.

4. The appellant's proposed solution to the difficulty is to convert two of the bedroom windows on the relevant face of the building to fixed obscure glazed lights, and to make the third an oriel window with its clear glass/opening light angled away from the affected properties.
5. That arrangement might be put into effect by a condition of permission granted on the deemed application but I do not consider it would overcome the problem. The possibility of viewing figures in shadow behind an obscure window might still reasonably cause unease to neighbours. Loss of amenity would remain in the perception of having people living in close proximity, even if objectively overlooking would be reduced. In any event, in view of the close relationship between the curtilages and buildings in question, and the modest proportions likely for the oriel window and thus the shallow angles of its lights, I do not think it would be effective to eliminate overlooking of neighbours even from the opening face proposed.
6. Of crucial importance anyway, is the fact that the arrangement would be quite unacceptable in reducing too far the already modest amenity levels offered by the appeal building. Daylighting and fresh air levels in the bedroom would be very adversely affected. It would not be appropriate to sanction such sub-standard living conditions. The objection to the notice development remains insurmountable.
7. I have taken due account of the appellant's proposal to provide further outdoor amenity space and off-street parking. As the Council appear to accept, to insist on a parking space runs counter to present policy as expressed in PPG's 3 and 13, especially in view of the site's urban location.
8. Kerbside parking is the norm in the area and granted it might be well used, particularly in the evenings, I do not see that this modest accommodation would generate any further demand of real significance. There would thus be available sufficient curtilage to provide some suitable amenity space.
9. These considerations, also the subject of adverse comment by the Council, do not therefore in my view represent weighty objections. I have assessed too all other matters raised but I have found nothing further of decisive significance. The adverse impact of the development on the amenities of neighbouring residents thus remains the overriding factor.
10. Accordingly the ground (a) appeal fails, and permission is not to be granted on the deemed application.

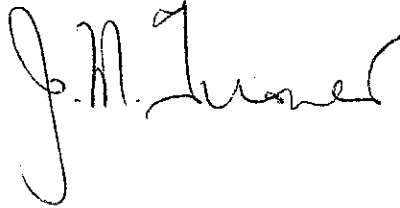
Decision

11. For the above reasons, and in exercise of the powers transferred to me I hereby dismiss the appeal, uphold the notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

Rights of appeal against decision

12. Particulars of the rights of appeal to the High Court against my decision are enclosed for those concerned.

signed:

A handwritten signature in dark ink, appearing to read 'J. M. Turner', written in a cursive style.

J M TURNER