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Enforcement Reference  
Location

0178/2016  
6 Jessops Lane  
Gedling, Nottinghamshire



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## **Report to Planning Committee**

**Reference:** 0178/2016

**Location:** 6 Jessops Lane Gedling NG4 4BQ

**Breach of Planning:** Unauthorised development.

### **1 Background**

- 1.1 Planning permission was granted on the 10<sup>th</sup> June 2016 for ground and first floor extensions to create a two storey dwelling together with a detached garage at No. 6 Jessops Lane, Gedling, (Reference 2016/0148).
- 1.2 The work commenced around September 2016 but in October 2016 it was brought to the Council's attention, the detached garage to the front of the dwelling was not being built in the approved location on the site; it was being built closer to the front boundary of the property and nearer the highway.
- 1.3 In addition, the approved alterations to the single storey projection to the rear of the property had not been built as approved. The approved plans showed there would be an increase in the width of the ground floor by 0.5m to the north eastern elevation and alteration of the original flat roof to a double gable. The development has actually been constructed to include a single gable with a mono-pitch design.
- 1.4 The owner was asked to stop work and submit a retrospective application for the alterations by varying condition 2 of the original planning permission which required the development to be built in accordance with the approved plans.
- 1.5 The application seeking to vary condition 2 was received on the 27<sup>th</sup> January 2017, (Reference 2017/0154) and on the 19<sup>th</sup> April 2017, a report was presented to the Planning Committee where Members resolved to refuse the application.
- 1.6 An appeal was subsequently made to the Planning Inspectorate seeking to overturn the Council's decision. On 15<sup>th</sup> August 2017 the Inspector issued her decision dismissing the appeal.

## **2 ASSESSMENT**

- 2.1 The site formally comprised of a detached bungalow set back from the front boundary with the highway by approximately 10metres. The level of the garden is elevated about 1 metre from the level of the highway. The levels in and around the site fall to the north east, setting the application site at a higher level than the neighbouring property, No. 8 Jessops Lane (a detached bungalow) and lower level than the neighbouring property No. 4 Jessops Lane (a two storey detached dwelling) . The detached garage has been built forward of the previously approved position and is now around 1.2 metres from the front boundary wall.
- 2.2 In both the approved and proposed locations, the garage would be visible within the street scene. However, the garage, which is partly built to roof level, has been erected on the site closer to the highway than approved and when combined with its elevated position, it is considered the garage is unduly prominent and incongruous within a residential area where the majority of other dwellings and outbuildings are set back from the front boundary.
- 2.3 In addition, the height and length of the garage's side elevation are considerably above the height of the boundary wall, leading to an oppressive effect on pedestrians walking past the site along the lower pedestrian footway. This is contrary to the aims of Policy 10 of the Aligned Core Strategy; Design and Enhancing Local Identity which among other things requires new development to make a positive contribution to the public realm and a sense of place, including through the creation of attractive and safe environments and through reinforcing valued local characteristics such as street patterns and the position of buildings and the layout of spaces.
- 2.4 The development is also contrary to the similar development criteria set out on Policy ENV1 of the Replacement Local Plan (Saved Policies 2014) and the requirements of the National Planning Policy Framework (Part 7) which requires good design.
- 2.5 The Planning Inspector has stated in her decision letter, "The visual dominance of the garage and its poor relationship with the surrounding properties is noticeable on both approaches along Jessops Lane, particularly from the nearby junction and when viewed from the opposite side of the road".
- 2.6 The Inspector has considered whether the external finish of the garage or the erection of a front boundary wall, fence and gate would make the garage more acceptable but has concluded "...the proposed finish of the garage would not affect these conclusion [and]... there is limited space between the garage and the front boundary for any meaningful screening landscaping to

be provided or to thrive. But in any event, landscaping does not justify development which should in itself be acceptable.”

- 2.7 The unauthorised alterations involving the single gable with a mono-pitch design to the rear of the property however, do not impact on the visual amenity of the locality or on the amenities of the occupiers of neighbouring properties and these alterations are not in conflict with either local or national policies. It is therefore considered not expedient to take formal action in respect of the development at the rear of the dwelling.

#### Human Rights

- 2.8 Under the Human Rights Act, it is necessary for the Authority to have regard to the rights of the owner and occupier of a site under Article 1 of the First Protocol to peaceful enjoyment of possessions and the protection of property and under Article 8 of the convention to respect for his private and family life, his home and his correspondence’.
- 2.9 In considering whether to take any enforcement action, the Council has to consider the proportionality of its actions. In other words whether the proposed action would be proportionate to the objective being pursued – here the enforcement of planning control in support of National and Local Planning Policies. It is recognised that taking enforcement action will result in interference with the recipients’ rights. However, it is considered that issuing a notice in respect of the garage in the first instance would be a proportionate response to rectifying the breach of planning control taking place.

#### Equalities

- 2.10 The Enforcement section operates in accordance with the Council’s Planning Enforcement Policy and is largely dictated by legislation which reduces the risk of discrimination in this service. The Council is accountable to the public, including its stakeholders, for its decisions both to take enforcement action and not to utilise its enforcement powers. There is a legitimate expectation of the public and stakeholders that the Council will take action to address breaches of planning by such means as are appropriate and which are in accordance with the Council’s policy and government legislation.
- 2.11 The Council strives for a consistent approach in targeting its enforcement action. This means that the Council will take a similar, but not the same, approach to compliance and enforcement decisions within and across sectors. It will strive to treat people in a consistent way where circumstances are similar. Each case however will be evaluated on the basis of its own facts and circumstances but will ensure that decisions or actions taken in any particular case are consistent with the law and with the Council’s published

policies. It should be noted that decisions on specific enforcement actions may rely on professional judgment. The Council will usually only take formal enforcement action where attempts to encourage compliance have failed as in this case.

#### Crime and disorder

- 2.12 The Crime and Disorder Act 1998 places a duty on the local planning authority to do all that it reasonably can to prevent crime and disorder in its area. The potential impact on the integrity of the planning system and the setting of a precedent if action is not taken is therefore a material consideration in the authorisation of enforcement proceedings.

### **3 CONCLUSION**

- 3.1 The unauthorised partly built garage is unduly prominent in the street scene and detrimental to the character of the area. It is over bearing on pedestrians walking by the site and is in conflict with both local and national policies.

However, the unauthorised alterations to the rear of the dwelling house do not detract from the development and are not contrary to local plan policies or the advice in the National Planning Policy Framework.

It is therefore considered an enforcement notice should be served requiring the garage to be demolished but that no further action should be taken in respect of the development to the rear of the property.

### **4 RECOMMENDATION**

- 4.1 That the Service Manager, Development Services in conjunction with the Director of Organisational Development & Democratic Services be authorised to take all enforcement action necessary including the service of any enforcement notices and proceedings through the courts to ensure the unauthorised garage is demolished and the garden area re-instated.