
Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 10 March 2021

Appeal ref: APP/Z4718/C/20/3263183

Land at 8 Millers Croft, Birstall, Batley, West Yorks, WF17 0RN

- 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 brought by Mrs Fouzia Sikandar against an enforcement notice issued by Kirklees Metropolitan Council.
- The notice was issued on 5 November 2020.
- The breach of planning control as alleged in the notice is "Without planning permission, the erection of front and rear dormer roof extensions".
- The requirements of the notice are: a) Dismantle and permanently remove the front and rear dormer roof extensions including any resultant debris and materials. b) Return the roof to its condition prior to the erection of the front and rear dormer roof extensions commencing".
- The time period for compliance with both steps a) and b) is "90 days after this Notice takes effect".
- The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The appeal is dismissed and the enforcement notice is upheld without variation.

Reasons for the decision

1. The main basis of the appellant's case is that she requires more time to comply with the requirements of the notice in order to allow for a retrospective planning application to be considered by the Council. While I appreciate the appellant's desire for the compliance period to be extended, I am mindful that some 4 months have elapsed since the appeal was submitted with enforcement action effectively suspended. I also note that the amended application was received by the Council on 4 December 2020 and they are confident it will be determined within 3 months. In these circumstances, I am not satisfied there is good reason to extend the compliance period further. The appeal on ground (g) fails accordingly. However, if the appellant has not yet received a decision on their application, it is open to her to submit a request to the Council to use their powers under section 173(1)(b) of the 1990 Act to extend the compliance period themselves, should they be satisfied there is justification for doing so.

Formal decision

2. For the reasons given above, the appeal is dismissed and the enforcement notice is upheld.

K McEntee