
Appeal Decision

Site visit made on 19 May 2021

by B.S.Rogers BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 July 2021

Appeal A Ref: APP/Z4718/C/21/3268920

Appeal B Ref: APP/Z4718/C/21/3268921

Woodleigh, Vicarage Road, Savile Town, Dewsbury, WF12 9PD

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - Appeal A is made by Mr Ayub Patel and Appeal B by Mrs Sajeda Patel against an enforcement notice issued by Kirklees Metropolitan Borough Council.
 - The enforcement notice was issued on 7 January 2021.
 - The breach of planning control as alleged in the notice is without the benefit of planning permission, the erection of a single storey extension to an outbuilding.
 - The requirements of the notice are a) demolish the extension to the outbuilding and return the building back to its previous condition prior to the extension taking place OR b) demolish the extension to the outbuilding and rebuild the outbuilding in full accordance with the approved plans, conditions and limitations outlined in the approved application carrying reference number 2020/91622.
 - The period for compliance with the requirements is 60 days.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a) & (g) and Appeal B on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a single storey extension to an outbuilding on land at Woodleigh, Vicarage Road, Savile Town, Dewsbury, WF1 9PD, referred to in the notice.

Application for costs

2. An application for costs was made by the Council against Mr Ayub Patel and a further application was made by Mr Ayub Patel against the Council. These applications are the subject of separate Decisions.

Preliminary matter

3. Due to an administrative error, the Council was not notified of the programmed accompanied site visit at 10.15 on 19 May. No representative of the appellant appeared on site at the appointed time. However, in walking to and from Woodleigh, I was able to see clearly the development in question. I also viewed the site from the highway. The Council has confirmed that it is content for me to determine the appeal on the basis of the representations and my viewing of the site. The appellant was less content but was given the

opportunity of listing site features that he would have wished to draw to my attention were I to re-visit the site. I am satisfied I viewed these features during my visit to the site and consider there is no benefit to be gained from re-visiting the site.

4. During my site visit, I saw that some additional structures have been recently added to the outbuilding. Neither party has made reference to these and, as they appear to post-date the enforcement notice and to be separate building operations, I have not treated them as part of the development addressed by the enforcement notice.

Appeal A: the appeal on ground (a) and the deemed application

5. The appeal property has the appearance of a large, elegant stone-built detached house, although I am informed that it has been split into two dwellings. It is set well back from the road in an elevated position and has a formal terrace to the front of the house, raised above a lawned garden. The outbuilding in question is built at the lower, garden level and extends forward of the dwelling alongside the SE walled boundary of the property. It has a flat roof at a similar level to that of the formal terrace, behind a raised parapet wall.
6. In its original form, the outbuilding occupied around half of the depth of the front garden but it has now been approximately doubled in length and the whole of its front parapet wall has been significantly raised in height. The new work is in matching coursed stonework.
7. In her recent decision letter dated 14 December 2020, a previous Inspector dismissed an appeal against the Council's refusal to grant permission, sought retrospectively, for a single storey extension to the outbuilding; this is effectively the scheme that is now built (Ref: APP/Z4718/W/20/3254836). She concluded that, by virtue of its siting, size, scale and appearance, the extended outbuilding results in significant harm to the character and appearance of Woodleigh, and the area.
8. Important factors in the above decision were that the outbuilding does not relate well to Woodleigh or to the terrace which it abuts, noting that the front elevation is higher than the adjoining terrace. Moreover, the proposed large central roller shutter door is out of keeping with the architectural style and residential character of the host property and its domestic front garden. The boundary to the street is formed by a stone wall and a hedge. Although the appellant was willing to retain the hedgerow, which was noted as providing some screening, the outbuilding was seen to be visible from locations to the front and side. In any event, the Inspector concluded that the vegetation was not permanent and should not be relied upon to screen inappropriate development from view.
9. The appellant has now submitted a unilateral undertaking to maintain in perpetuity the laurel hedge sited immediately adjacent to the front boundary wall, to a height not to be lower than the outbuilding. The undertaking would ensure that the hedge is maintained at the specified height and that, if any of it dies or is damaged, it would be replaced.
10. In addition, the appellant has pointed out that, when determining the previous appeal, the Inspector appears not to have been made aware of a relevant,

extant planning permission; there was no mention of it in her decision. Under ref: 2020/91622, the Council granted planning permission on 29 July 2020 for the erection of a single storey extension to the outbuilding. This was similar in design and materials to the current extension, was of similar increased height and contained a roller shutter door. Together with the original outbuilding, the approved scheme amounted to a very large and lengthy building.

11. The only significant difference from the scheme as now built was that the 2020 approved scheme would have projected forward of the main dwelling by some 2m less. I note that one of the requirements of the enforcement notice provides an option for this scheme to be implemented. Accordingly, it represents a clear fall-back position.
12. Having regard to the above, the main issue is the additional impact of the present scheme, over and above the approved scheme, on the character and appearance of the host property and the area.
13. Turning first to the impact on the host property, the additional 2m in depth represents a fairly small proportional increase in the total length of the scheme approved in 2020. Moreover, it is positioned at the furthest point from the house, where it has the least visual impact on the setting of Woodleigh. In this context, I view the impact of the modest additional depth as being tolerable.
14. Vicarage Road is a fairly narrow street with few dwellings on the NE side, which includes the appeal property. Most of the opposite side of the road is occupied by a school. The extended outbuilding as a whole is scarcely visible from Vicarage Road because of the presence of the stone boundary wall and the screening impact of the high, dense laurel hedge. There is a limited view from adjacent to the gateway to the dwelling but, from here, the additional 2m in question is the least noticeable part of the whole scheme.
15. The context of my determination of this appeal is significantly different from that which existed at the time of the previous appeal because of the unilateral obligation and the existence of the fall-back position described above. Accordingly, I conclude that the development does not unduly harm either the character or appearance of Woodleigh and of the area. It therefore does not conflict with the provisions of Policy LP24 of the Kirklees Local Plan Strategy and Policies adopted February 2019 which aims to promote good design that respects and enhances the character of the townscape.
16. For the reasons given above, I conclude that Appeal A should succeed on ground (a) and planning permission will be granted.
17. As a result of the above conclusion, there is no need to go on to consider ground (g) in respect of Appeals A and B.

B.S. Rogers

Inspector