



Appeal Decision

Site visit made on 5 February 2024

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 22 February 2024

Appeal Ref: APP/Z4718/C/23/333337

44 Falcon Street, Huddersfield HD4 6LH

- 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 made by Mrs Asfa Ahmed against an enforcement notice issued by Kirklees Metropolitan Borough Council.
- The enforcement notice was issued on 13 October 2023.
- The breach of planning control as alleged in the notice is *Without the benefit of planning permission, the erection of a side extension*.
- The requirements of the notice are to demolish and completely remove the extension and return the land to its state prior to the unauthorised development being built; and to remove any resulting material from the site.
- The period for compliance with the requirements is 60 days.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended.

Summary Decision: the appeal is dismissed and the enforcement notice is upheld.

Main Issues

1. The main issue in the appeal, as identified by the Council's reasons for issuing the enforcement notice, is the effects of the development on the character and appearance of the area, and whether or not it complies with the development plan for the area in these respects. If not, then a further main issue for consideration is whether the steps required to be taken by the notice exceed what is reasonably necessary to remedy the alleged breach of planning control.

Reasons

2. Policy LP24 of the Kirklees Local Plan puts good design at the core of all development proposals in the district. Among other considerations, the form, scale, layout and details of all development should respect and enhance the character of the area; and any extensions should be subservient to the original building and in keeping with it. The requirements of this policy are given detailed consideration in the Council's House Extensions and Alterations Supplementary Planning Document, particularly through key design principles 1 and 2. Where extensions seek to differ from the existing house in certain respects, proposals will be considered on a case-by-case basis and the Council will support innovative design which is appropriate to its local context.
3. The development here consists of what is described by the appellant as a shed, although it is attached to the principal dwellinghouse and thus gives the appearance of an extension to the building. Unlike the yellow brick of the dwellinghouse, the shed/extension (hereafter, 'the shed') is constructed of what appears to be untreated chipboard. It is distinctly at odds with the appearance of either the house or the brick wall to which it is also attached.

4. It is difficult to say which is the front elevation of the dwelling, with a 'front' door and porch appearing on both sides. The western side has a slightly larger porch element, although that is also the side that opens on to the property's fenced garden, unlike the eastern side which opens directly onto an unfenced space. The flat felt roof of the shed protrudes slightly forward of the western elevation of the dwelling to which it is attached. To the east, the body of the shed is set back very slightly, with a fence and gate sited in front of it, alongside the property's eastern elevation. As a whole, the shed does not achieve the setback from either elevation, in order to create a subservient relationship, that is anticipated by the Council's design policy.
5. The appellant acknowledges that the visual appearance of the shed is somewhat lacking, and proposes to take steps to mitigate this. These steps include rebuilding the exterior walls with matching materials, or alternatively with relevant panelling used for sheds, and detaching the shed from the house. No plans of any detachment are provided. In the absence of any such plans (and in any event) such measures, although potentially improving the appearance of the structure, would amount to a different proposal from the one before me. The appeal here can only seek planning permission for the development that has been carried out, rather than for any alternative proposal, and so I cannot consider such an alternative scheme.
6. The appellant also appeals on ground (f) which is to seek to take lesser steps in order to achieve the objectives of the notice. Again, however, the proposed steps of detaching the shed and building it of different materials would amount to a fundamentally different development from the one under appeal. In the absence of any plans of what is proposed I am unable to modify the enforcement notice to require such steps to be taken, because of the uncertainty about what exactly is being proposed.
7. I acknowledge the appellant's security concerns and lack of space within the main house to store the various chattels that are now kept in the shed. The Council's reasons for issuing the enforcement notice refer to the permitted development rights that may be available to construct extensions, and other rights may apply to construct outbuildings. Therefore the outcome of this appeal appears unlikely to deprive the appellant of the opportunity to construct some additional storage space of some kind. Given this potential to achieve an acceptable alternative, the security concerns and need for storage space do not in my judgement justify allowing this particular development, which I conclude is contrary to the development plan for the area.

Conclusion

8. 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 deemed application.

Formal Decision

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

Laura Renaudon

INSPECTOR