



Appeal Decision

Site visit made on 5 March 2024

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2024

Appeal Ref: APP/Z4718/C/23/3328685

Land and property at The Piggeries, Longwood Edge Road, Longwood, Huddersfield HD3 4XN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Mohammed Ismail against an enforcement notice issued by Kirklees Metropolitan Council.
 - The notice was issued on 26 July 2023.
 - The breach of planning control as alleged in the notice is without the benefit of planning permission, the construction of a building.
 - The requirements of the notice are:
 - a) Dismantle and remove the building, including any foundations/base; remove all resulting materials/debris from the site.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

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

Application for costs

2. An application for costs was made by Kirklees Council against Mr Mohammed Ismail. This application is the subject of a separate Decision.

Preliminary matters

3. The appeal site has a planning history which includes an application for a development described as *amendment to roof form, material changes and increase in building footprint*, which was refused by the Council and subsequently dismissed at appeal¹.
4. The development in this case consists of a new building, and there are some minor differences in the external details and finishes. Nevertheless, the resulting development is not materially different to that subject of the previous appeal, and it is therefore against this background that I have considered the ground (a) appeal.
5. The appellant failed to attend or send a representative to the arranged site visit. However, I was able to view the site from public vantage points and therefore proceeded with the visit on an unaccompanied basis.

¹ APP/Z4718/W/22/3304716

The appeal on ground (a) and the deemed planning application

6. The main issue is the effect of the development on the character and appearance of the area, including its effect on the setting of the Longwood Edge Conservation Area.
7. The appeal building occupies a relatively isolated and elevated position on the edge of a former quarry cliff face, adjacent to the Longwood Edge Conservation Area.
8. The Council have not provided an appraisal for the Conservation Area however, it appears that it is a former mill village with many traditional buildings remaining, including mill buildings, albeit now in alternative uses. It seems to me, that the area has an attractive, well maintained historic character and appearance.
9. The appeal building is broadly L-shaped and consists of various materials, roof, and fenestration shapes. The lack of cohesion in terms of roof form and fenestration detailing, along with the awkward relationship where the elongated section joins the broadly western section of the building, has resulted in a building of unusual form and significantly incongruous appearance. It is neither visually attractive nor of a high standard of design and has a significant adverse effect on the character and appearance of the area and the setting of the Conservation Area.
10. The building is visible from the adjacent public right of way, which appeared at the time of my visit, on a Tuesday morning, to be well used. Given its elevated position, it is also likely to be visible from a fairly wide number of public vantage points. Accordingly, its harmful effect is likely to be appreciated by many.
11. I consider the harm caused to the setting of the Conservation Area to be less than substantial. Where less than substantial harm is caused to the significance of such a heritage asset, that harm should be weighed against any public benefits.
12. The appellant has not sought to demonstrate that, nor am I aware, there are any public benefits associated with the development. Consequently, there are no public benefits to outweigh the great weight that I am required to attach to the heritage asset's conservation.
13. I note the representation of support however, this is a neutral matter that cannot outweigh the identified harm.
14. Overall, I conclude that the development does not accord with the design and heritage protection aims of Policies LP 24 and LP 35 of Kirklees Local Plan Strategy and Policies Adopted 27 February 2019. Together these require development to promote good design by ensuring the form, scale, layout, and details of all development respects and enhances the character of heritage assets and preserves or enhances the significance of the asset. It also fails to accord with national policy which seeks to ensure that developments are visually attractive as a result of good architecture and conserve and enhance the historic environment.

Conclusion on ground (a)

15. For the above reasons I conclude that the appeal on ground (a) should not succeed.

The appeal on ground (g)

16. An appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable.
17. The appellant seeks six months, which in the absence of explanation, I take as meaning six months in addition to the six specified in the enforcement notice. This is on the basis that this will allow time for discussions with the Council to agree a solution, and for the submission and determination of a planning application.
18. Where an appeal is made against an enforcement notice, regardless of the grounds, the appeal 'stops the clock' and the period for compliance does not start until the date of the appeal decision. If the appeal proceeds on ground (g) and other grounds, the appellant is entitled to assume success in the other grounds, and so it is necessary to start from the date of the appeal decision when considering what the 'reasonable' period for compliance would be.
19. However, the period given for compliance within the enforcement notice is to allow for the physical works associated with the notice to be removed. In the absence of substantive contrary explanation, it seems to me that the compliance period is long enough for an application to be submitted and if approved implemented, or the notice complied with.
20. The appeal on ground (g) therefore fails.

Conclusion

21. 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 application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Felicity Thompson

INSPECTOR