
Appeal Decision

Site visits made on 5 February 2024 and 5 March 2024

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 10 April 2024

Appeal Ref: APP/Z4718/C/23/3332195 ('the enforcement appeal')
15 Clara Street, Hillhouse, Huddersfield HD1 6EN

- 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 Mr Khalid Sheikh against an enforcement notice issued by Kirklees Metropolitan Borough Council.
- The enforcement notice was issued on 20 September 2023.
- The breach of planning control as alleged in the notice is *Without the benefit of planning permission, an extension forward of the principal elevation*.
- The requirements of the notice are to demolish and remove the extension including timber platform and handrails; and to remove any resulting materials or debris.
- The period for compliance with the requirements is 90 days.
- 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.

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

Appeal Ref: APP/Z4718/W/23/3336115 ('the planning appeal')
15 Clara Street, Hillhouse, Huddersfield HD1 6EN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Khalid Sheikh against the decision of Kirklees Metropolitan Borough Council.
- The application Ref 2023/62/93255/W dated 1 November 2023 was refused by notice dated 20 December 2023.
- The development proposed is described in the application as a single storey extension to front (modified proposals) and in the Council's decision as an extension forward of the principal elevation and associated alterations (modified proposals).

Summary Decision: The appeal is dismissed.

Main Issues

1. The main issues in the appeals, arising from the Council's reasons for issuing the notice and for refusing planning permission, are, first, the effect of the development on the character and appearance of the host property and the wider area; and secondly, the effects of the development on the living conditions of neighbouring residents by reason of overlooking. That second issue was raised by the reasons for issuing the enforcement notice but not by the planning refusal, and I consider it accordingly. Subject to those matters, if planning permission is not forthcoming then a further issue for consideration is whether the time given to comply with the requirements of the notice is unreasonably short.

Reasons

The enforcement appeal on ground (a) and the planning appeal

Character and appearance

2. The development alleged in the notice is one of a number of apparently recent changes to the property, which also include changes to the roof and the installation of a 'gazebo' style front boundary treatment. I am not informed as to the planning status of those other matters; a 2016 rear extension permission is supplied but with no details as to whether that development was carried out. The notice's allegation itself is confined to the front extension and so no question of underenforcement arises.
3. The relevant local policy context is found in the Kirklees Local Plan, adopted in 2019, and particularly its design policy LP24. That requires the form, scale and details of all developments to respect and enhance the local character.
4. Reference is also made in the notice to the Council's House Extensions & Alterations Supplementary Planning Document ('SPD') which requires extensions and alterations to residential properties to be in keeping with the appearance, scale, design and local character of the area and to avoid dominating the original house.
5. The extension here has the appearance of a conservatory erected to the front of the dwelling. It consists largely of dark reflective glass with what are described by the appellant as grey UPVC frames. It has a similarly glazed low pitched roof. It extends to nearly the full width of the property, the sides having the same glazing treatment as the front.
6. The property is located within a terrace of brick-built two-storey residential properties that appear about a century old. Some stone-built properties are also found in the vicinity. Most properties within the terrace are yellow-bricked although some, including the appeal property, have been painted or rendered. The typical property within the terrace has four apertures to the front: a door, with window to the side, and two windows to the first floor. The building line of the terrace is, apart from this extension, very strong: there are one or two small porches to the fronts of other properties, but otherwise the front gardens, mostly with low boundary walls, are free of built development.
7. The extension here is in marked contrast to the development pattern of the street. By extending the property significantly forwards the building line is substantially disturbed and the rhythm of the street's character is disrupted as a result. The materials used in the extension are highly incongruous with the otherwise bricked frontages with modest window openings consisting of plain glass. The grey UPVC elements are not consistent with any other houses in the vicinity, where window frames are white or occasionally dark brown. The result is a development that is highly detrimental to the street scene and which fails to comply with the requirements of the design policy of the Local Plan.
8. Turning to the revised proposal that is the subject of the planning appeal, this would have a somewhat reduced projection and would have a reduced area of glazing with materials that are more in keeping with those of the host property. Nonetheless the significant disturbance to the building line of the street would still arise, resulting in a detrimental impact on the character and appearance of the area that would not meet the objectives of policy LP24.

Living conditions

9. In respect of this issue, development proposals are required by policy LP24 to provide a high standard of amenity to neighbouring occupiers, explained by the SPD to include reasonable levels of privacy. The present reflective glass material used in the extension is particularly hostile to the neighbouring occupants, who are unable to tell when they are being overlooked. The extension extends sufficiently forward, and above the height of the side boundary fencing, to allow overlooking into the habitable rooms of the neighbouring properties.
10. The appellant acknowledges the concern and suggests that it can be overcome by the imposition of a planning condition to require obscure glazing to the sides of the extension. However, that would be to substitute one problem with another. Whilst the installation of obscure glazing could overcome any potential for overlooking, it would be very difficult to achieve without further adverse effects on the character and appearance of the area. The street is not presently characterised by obscure glazing to any principal windows. To replace the side windows here would not overcome the harm caused by the design of the extension and would be likely to add to its incongruity by introducing yet more alien features not found elsewhere in the street frontage.
11. The somewhat reduced projection of the proposal that is the subject of the planning appeal is considered by the Council to overcome these concerns, and I have no reasons to disagree. However, that does not in itself overcome the design concerns expressed above, and the overall conflict with the development plan would remain.

The enforcement appeal on ground (g)

12. The appellant contends that the extent of the works required and the need to reconfigure living arrangements means that the 90 day period stipulated for compliance is too short, seeking 120 days instead. It is not explained why the works could not be carried out within 90 days or what reconfiguration would be required. In the absence of any such explanation I have no reason to think that 90 days is an insufficient period within which to carry out the required works. The appeal on ground (g) will fail.

Conclusion

13. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application. I shall also refuse to extend the period for compliance with the notice, meaning that the notice will be upheld without variations. The planning appeal will be dismissed.

Formal Decisions

14. The enforcement 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. The planning appeal is dismissed.

Laura Renaudon

INSPECTOR