

Appeal Decision

Site visit made on 30 September 2024

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date 30 October 2024

Appeal Ref: APP/N2739/C/24/3339189

5 Wain Close, South Milford, Leeds, LS25 5AH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr and Mrs D Shaw against an enforcement notice issued by North Yorkshire Council.
 - The notice was issued on 22 January 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised erection of a wooden summer house.
 - The requirements of the notice are to 1) remove the summer house from the land along with residential paraphernalia, and 2) return the land to its previous condition – grass and an area of hardstanding.
 - The period for compliance with the requirement is six months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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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.

Preliminary Matter

2. The Government consulted on reforms to the National Planning Policy Framework 2023 (the Framework) on 30 July 2024 (Consultation Draft Framework). The consultation closed on 24 September 2024. I afford the Consultation Draft Framework limited weight in decision making terms as a material planning consideration. Considering the deemed planning application main issues below, there are no proposed reforms in the Consultation Draft Framework which have a material bearing on how this appeal should be considered. In this regard, it has not been necessary for me to seek comments from the main parties in respect of the Consultation Draft Framework.

Main Issue

3. An appeal is made under ground (a) which is that planning permission ought to be granted in respect of the breach of planning control alleged in the notice. I have considered the reasons for issuing the notice and the main

issue is the effect of the development on the character and appearance of the area.

Reasons

4. The summer house is built on land which is opposite albeit separated from No. 5 Wain Close (i.e., a detached dwellinghouse) by a highway. I am not certain of the actual lawful use of this land, but it falls within a wider strip of land opposite properties on Wain Close. This land includes a combination of hardstanding and grassed areas (there are dropped kerbs) with mostly intervening evergreen hedges which divide the spaces up so that they are aligned with the detached dwellinghouses on the other side of Wain Close.
5. There is a pleasing consistency to the character and appearance of this strip of land. While it appears to be partly in use for the intermittent parking of vehicles, it nonetheless provides a consistent sense of openness and landscaped character which adds positively to the distinctiveness of the immediate environment. Indeed, as part of my site visit I was able to experience that it provides some positive and welcome relief to the otherwise built form on the other side of Wain Close.
6. In the context of the above, the wooden summer house is appreciated in the street-scene as being a dominant and incongruous addition. It occupies a significant amount of the plot/land directly opposite No. 5 Wain Close and owing to its position and size detracts unacceptably from the prevailing open and landscaped character of the remainder of the strip of land running alongside Wain Close. Overall, find that the wooden summer house fails to assimilate well into the character and appearance of Wain Close.
7. I note the representations made by other interested parties. One claims that the wooden summer house is permitted development. The Council have drawn my attention to the fact that the land is severed from No. 5 Wain Close by a highway and is of the view that it does not therefore fall within the curtilage of the dwellinghouse and hence cannot benefit from permitted development rights under Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). An appeal has not been made by the appellant under ground (c) of section 174(2) of the Act. Consequently, it is not appropriate for me to consider whether the appeal building is permitted development as part of the consideration of an appeal made under ground (a).
8. For the above reasons, I find that the breach of planning control does not accord with the design, character and appearance requirements of policy ENV(1) of the adopted Selby District Local Plan 2005, policy SP19 of the Selby District Core Strategy Local Plan 2023, and chapter 12 of the Framework. The development does not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, the ground (a) appeal fails.

Overall Conclusion

9. 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).

D Hartley

INSPECTOR