
Appeal Decisions

Site visit made on 2 October 2024

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 7 October 2024

Appeal A, Ref: APP/X4725/W/24/3344123

15 Burntwood Crescent, South Kirby, Pontefract, West Yorkshire WF9 3RN

- 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 Alan Roberts against the decision of City of Wakefield Metropolitan District Council.
- The application Ref 23/02343/FUL, dated 4 December 2023, was refused by a notice dated 15 April 2024.
- The development proposed is outbuilding to front/side of existing dwelling (retrospective).

Summary Decision: The appeal is allowed.

Appeal B, Ref: APP/X4725/C/23/3335924

Land at 15 Burntwood Crescent, South Kirby, Pontefract, West Yorkshire WF9 3RN

- 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 J Roberts against an enforcement notice issued by City of Wakefield Metropolitan District Council.
- The enforcement notice was issued on 27 November 2023.
- The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised erection of a timber outbuilding on the Land.
- The requirements of the notice are:
 1. Demolish the timber outbuilding.
 2. Remove from the Land all resultant debris.
- The period for compliance with the requirements is eight weeks.
- The appeal is proceeding on the grounds set out in section 174(2) (f) and (g) of the Town and Country Planning Act 1990 as amended.

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

Appeal A

Main Issue

1. The main issue in this case is the effect on the character and appearance of the area.

Reasons

2. Burntwood Crescent is characterised by similarly designed, semi-detached, brick dwellings in a residential area. The dwellings are set back from the road with modest front gardens and driveways enclosed by a mixture of low walls, fences and hedgerows. The cohesive design, appearance and general

alignment of these dwellings gives the street scene a distinct rhythm and character.

3. 15 Burntwood Crescent is situated on a bend in the road. As such, the property is sited within a wedge-shaped plot, has a large side/front garden and a small rear garden which tapers to a narrow point. The outbuilding the subject of this appeal, which has been constructed, is within the property's side garden and of a timber construction with a flat roof and uPVC window/doors.
4. The Council consider the position of the outbuilding, which is within the front/side garden of the dwelling, to be incongruous. Furthermore, they maintain that the use of timber as a building material is in stark contrast to the property's brick construction and conclude that the scale, appearance and position of the outbuilding has a harmful effect on the character and appearance of the area.
5. There is no doubt that the outbuilding is clearly visible within the street scene. However, considering the generous size of the front/side garden, the siting of the outbuilding, which is set well back from the street and to the side of the dwelling's front façade, it does not appear as a dominant structure. The building has a utilitarian design and appearance, and its materials of construction are not uncharacteristic for a domestic garden building. Furthermore, its scale is proportionate to the host property.
6. I noted on my site visit that the gardens to the front of properties on Burntwood Crescent differ considerably in their size, appearance and boundary treatment. Some of the frontages are completely taken over by hard surfacing and utilised for parking cars, whilst others have a lawn area and include domestic paraphernalia. For example, children's play equipment, gazebos and outdoor seating. I also noted that No. 1 Burntwood Crescent, a similar corner property to the host dwelling in this appeal, has a couple of small sheds within its side/front garden.
7. Considering the residential nature of the street, I do not consider that the outbuilding is an incongruous structure. It has the design and appearance of a domestic shed, and its timber construction is a suitable building material for its ancillary use. Furthermore, the timber will weather over time, and become less stark in appearance.
8. I conclude that the outbuilding does not have a harmful effect on the character and appearance of the area. I find no conflict with the development plan, including Policies SP23, LP56 and LP57(d) of the Wakefield District Local Plan, adopted January 2024 which seek to ensure, amongst other things, that the design of new buildings respect the character, function and overall quality of the locality in terms of design, scale, massing, height, density, layout, materials and colour for the lifetime of the development. I also find no conflict with the general design aims of the National Planning Policy Framework, nor the advice set out in the Council's adopted Residential Design Guide SPD, Part 2, which requires outbuildings to reflect the character of the main house in terms of size, materials and proportions and be sited to the rear or at the side of the property.

Conclusion on Appeal A

9. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should succeed.

Appeal B

Procedural Matters

10. The breach of planning control alleged in the enforcement notice is the unauthorised erection of a timber outbuilding on the Land. It can be seen from my decision on Appeal A that I have granted planning permission for the outbuilding, the subject of a retrospective planning application refused by the Council. Considering my decision on Appeal A, grounds (f) and (g) in this appeal do not fall to be considered.
11. Section 180 (1) of the Town and Country Planning Act, 1990 provides that: "Where, after the service of an enforcement notice, planning permission is granted for any development carried out before the grant of that planning permission, the notice shall cease to have effect so far as inconsistent with that permission". Thus, albeit I shall uphold the enforcement notice, the appellant is able to rely on the provisions of Section 180 (1) and the grant of planning permission pursuant to the linked appeal Ref, APP/X4725/C/24/3344123.

Conclusion on Appeal B

12. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Formal Decisions

Appeal A

13. The appeal is allowed and planning permission is granted for the outbuilding to front/side of existing dwelling (retrospective) at 15 Burntwood Crescent, South Kirby, Pontefract, West Yorkshire WF9 3RN in accordance with the terms of the application, Ref 23/02343/FUL, dated 4 December 2023, and the plans submitted with it.

Appeal B

14. The appeal is dismissed and the enforcement notice is upheld.

Elizabeth Pleasant

INSPECTOR