
Appeal Decision

Site visit made on 12 March 2025

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th March 2025

Appeal Ref: APP/Z4718/C/24/3347031

9 Inglewood Avenue, Birkby, HD2 2DS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Mohammed Iqbal against an enforcement notice issued by Kirklees Metropolitan Council.
 - The notice was issued on 21 May 2024.
 - The breach of planning control as alleged in the notice is, without the benefit of planning permission: (i) alteration/extension to the property to raise the height of the roof of the dwelling; (ii) erection of a three-storey rear extension; and (iii) alterations including rendering of all external elevations and alterations to window and door fenestration details.
 - The requirements of the notice are:
 - a) Demolish the extensions and remove alterations, including the render and the new window and door fenestrations.
 - b) Return the dwelling to its previous condition, prior to the unauthorised works taking place, as shown on Plan Q14.028(A).P-04 Existing Elevations attached to Appendix 1.
 - c) Remove all resulting material from the site following steps (a) and (b) above.
 - The period for compliance with the requirements is 90 days.
 - 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 Matters

2. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published in December 2024. This does not raise any matters that require me to seek representations from the main parties in this case. I have, however, determined the appeal having regard to the revised Framework.
3. The key policy in this appeal is Policy LP24 of the Kirklees Local Plan – Strategy and Policies 2019 (the Local Plan) which, among other things, requires good design and seeks to ensure that the form, layout and details of development respects and enhances the character of the townscape. An October 2023 review found the Local Plan to be out-of-date in several areas, including housing and employment. However, Policy LP24 is consistent with the Framework, and I have given it full weight in my decision.

Ground (a) appeal and the deemed planning application

4. An appeal on ground (a) is that planning permission ought to be granted in respect of the breach of planning control constituted by the matters stated in the enforcement

notice. The main issue in this case is the effect of the development on the character and appearance of the host property and the surrounding area.

Reasons

5. The appeal site is a detached dwelling located on a large rectangular plot and set back from the highway. The adjacent neighbouring properties are 7 Inglewood Avenue to the east and 11 and 15 Inglewood Avenue to the west. The gradient of this stretch of Inglewood Avenue is such that No 7 occupies a lower level than the appeal property and Nos 11 and 15 are on higher ground.
6. The surrounding area is of established residential character featuring large detached two storey houses and bungalows of various sizes and designs, many of which have been altered and extended. They are either one or two storeys in height, though some also have accommodation within their roof spaces. Properties are predominantly faced in stone, with a small number also having elements of render. They are generally set within large gardens with generous gaps between them. Boundary treatments typically comprise low walls and hedges to the front, while others have open frontages to the road, and there are mature trees within their gardens. The area therefore has a spacious and verdant character.
7. The alleged unauthorised extensions to the property have included raising its height to three storeys, the construction of a three storey rear extension, alterations to the fenestration and rendering of the external elevations.
8. Although it is set well back from the highway, the increased height and scale of the property as a result of the development are readily apparent within the street scene. It reads as a substantial three storey building due to the high eaves level. While some neighbouring properties have accommodation at third floor level, including Nos 11 and 15, viewed from the road they appear as two storey buildings with accommodation within their roof spaces, rather than three storey buildings, and they therefore harmonise with the street scene. In contrast, the appeal property is now three storeys in height, which is at odds with the two storey properties and bungalows elsewhere on the road.
9. The slope along Inglewood Avenue mitigates the apparent height of the development relative to No 11, as the ridge lines of the two buildings are broadly level. However, it has the reverse effect in relation to No 7 by emphasising the substantial height of the development over that neighbouring property, which is a bungalow. Even though a hipped roof has been constructed to this side of the building, and there is a clear gap to the boundary, the difference in roof heights between the two buildings is significant and appears abrupt and jarring in the street scene. The development is therefore unduly dominant in relation to the host property and its surroundings.
10. The appellant says that planning permission was granted for similar extensions and alterations to the property in 2018¹. However, the hatched lines indicated on the as-built drawings show that the height of the extended building is notably greater than that permitted by the 2018 permission, particularly when viewed from the front. Therefore, the previous approval was for a materially different scheme which does not justify the harm identified in this case.

¹ Council Ref. 2018/62/91542/W

11. The adverse visual effects of the development are exacerbated by the new window and doors and facing materials to the front elevation. While the PVC frames, and the alignment of the windows above the main entrance, are acceptable, the irregular pattern of the openings and mix of materials is incongruous. The openings are of various shapes and sizes, with some having a vertical emphasis and others with horizontal proportions, and there are uneven gaps between them. I note that one of the front windows has been omitted from the as-built plans. While the appellant is willing to remove this window and replace it with stone, this would not overcome my concerns regarding the remaining fenestration to this elevation.
12. Although render finishes are not uncommon in this area, the facing materials to the front elevation of the development have been arranged in an uneven manner, with the lower two storeys comprising stonework and the upper storey in render. The overall result is an asymmetrical and unbalanced frontage which is unsympathetic to the character of the area.
13. Planning permission for extensions and alterations to No 7² has been granted but not yet implemented. The approval of the proposed development at No 7 does not imply that the appeal development is acceptable as each case is determined on its own merits, and in any case, I note that the neighbouring development was approved prior to the enforcement notice being served. Substantive details of that scheme have not been provided and so I cannot be sure that it is comparable to the appeal development. That said, the evidence before me indicates that the height of the neighbouring development would be considerably lower than the appeal property, particularly taking into account the difference in levels.
14. For the above reasons, I conclude that the development is significantly harmful to the character and appearance of the host property and the surrounding area. It therefore conflicts with Policy LP24 of the Local Plan and Key Design Principles 1 and 2 of the Council's House Extensions and Alterations Supplementary Planning Document 2021. It also conflicts with the Framework which seeks to ensure well designed development that is sympathetic to local character.

Other Matters

15. During the appeal, a planning application for this development was submitted to the Council³. I have not been made aware that the application has been determined and it is far from certain that the Council would approve it given the concerns identified. I therefore afford this consideration little weight.
16. The appellant contends that the development is no different to the scope of works allowed under Class AA, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015, which permits additional storeys above existing dwellings. However, development permitted by Class AA is subject to a prior approval procedure including consideration of the impact on the external appearance of the dwelling which I have found unacceptable in this case, and in any event the development is not permitted development as prior approval was not sought. I afford little weight to this matter.

² Council Ref. 2023/62/93799/W

³ Council Ref. 2024/62/93279/W

17. The property was in a poor state of repair and fire damaged prior to the unauthorised works taking place. Nevertheless, its previous condition does not provide convincing justification for the harm arising from the appeal development.
18. The retention of the development would avoid existing materials being removed from the site which is more environmentally sustainable than the need for new materials. Given that the development relates to a single dwelling, any benefits in this regard are very limited, and it is likely the existing materials could be partly reused or recycled.
19. I acknowledge that the development has provided enlarged accommodation for the appellant and their family. I have also taken into account comments made by third parties in support of the development. However, these matters do not alter my conclusion that the development is unacceptable.

Conclusion

20. The development is harmful to the character and appearance of the host property and the surrounding area. It is contrary to the development plan as a whole, and there are no other material considerations, including the provisions of the Framework, which outweigh this finding.
21. I therefore conclude that the appeal on ground (a) 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).

M Ollerenshaw

INSPECTOR