



Appeal Decision

Site visit made on 6 April 2025

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 APRIL 2025

Appeal Ref: APP/X4725/C/24/3345371

11 Lincoln Street, Wakefield, WF2 0EB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Wajid Ali against an enforcement notice issued by Wakefield Metropolitan District Council.
 - The notice was issued on 24 April 2024.
 - The breach of planning control as alleged in the notice is without planning permission, erection of an unauthorised front porch on the land.
 - The requirement of the notice is to remove the front porch from the land.
 - The period for compliance with the requirement is three 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). 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 National Planning Policy Framework was revised in December 2024 (the 2024 Framework). This replaces the previous version of the National Planning Policy Framework published in December 2023. The 2024 Framework has not materially changed in terms of the consideration of the ground (a) appeal main issue below.

Ground (a) appeal and the deemed planning application

Main Issue

3. An appeal is made on ground (a) of section 174(2) of the Act 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 unauthorised development on the character and appearance of the area including a Building of Local Interest (BLI).

Reasons

4. The appeal property is a red-brick mid-terraced dwellinghouse. The evidence is that the wider terrace is locally listed as a BLI. This street is generally characterised as having two storey (some with dormers in the roof space) red-brick terraced properties set back from the road with front amenity spaces with red-brick dwarf enclosing walls. The latter offers some open and consistent relief to the otherwise built-up area. The general absence of front porches contributes

positively to the spacious character to the front of the dwellinghouses in the street and ensures that there is a pleasing linear consistency to the building line and pattern of development in the locality. Some of the buildings are grouped together and have ground floor bay windows, and then other properties are grouped together and have front elevations which are essentially flat when experienced by passers-by. Collectively, these attributes add positively and distinctively to the character and appearance of the area, and to the significance of the BLI.

5. The porch is positioned at a higher level than Lincoln Street and is reached by steps. It is prominent when viewed in the street-scene and projects close to the highway. Owing to its position, bulk and projection, I find that it has caused harm to the linear pattern of development in Lincoln Street. It materially detracts from the otherwise consistent spacious pattern of front amenity spaces between the highway and the terraced properties and constitutes a departure from the essentially common building line. This harm is compounded because the brick used for the walls of the porch does not match that used on the original dwellinghouse.
6. Overall, I consider that the porch appears as a dominant, prominent and incongruous addition in the street-scene which has caused significant harm to the character and appearance of the area, and to the significance of the BLI.
7. For the above reasons, I conclude that the porch does not accord with the design, character, appearance, conservation/preservation requirements of policies LP56, LP57, LP63 and LP65 of the adopted 2024 Wakefield Local Plan 2036, the Council's Residential Design Guide 2018, and chapters 12 and 16 of the 2024 Framework.

Other Considerations

8. The appellant states that the porch was erected so that a replacement internal staircase at 42 degrees could be constructed and to make it easier to facilitate access to the upper bathroom for the 'owner's aged family', and to provide covered access into the property. While I have little evidence from the appellant about his family, I have interpreted his comments on the basis that members of his family have mobility difficulties which impact on their ability to carry out normal day to day activities. In this regard, I have determined this appeal based on the porch being erected to improve movement internally, including for those who have a disability.
9. In the context of the above, I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within Article 8 of the European Convention on Human Rights as incorporated into the Human Rights Act 1998 (HRA) which states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial.
10. I acknowledge that the porch has facilitated internal improvements to the dwellinghouse and that it has made it easier for occupants, including those with a disability, to gain better access to the upper floor. However, this must be weighed against the fact that the appellant has not indicated that it would not have been

possible to have considered making alternative internal changes to the property through re-modelling and without having to erect the porch. Put another way, the appellant does not indicate that it would not be possible to achieve similar internal access improvements and without it resulting in the planning harm associated with the breach of planning control.

11. The appellant has commented that there are other porches in the street. He also states that the properties are not identical in so far that some have replacement windows and the addition of dormers. I acknowledge that the dwellinghouses in the street are not identical. Nonetheless, as detailed above there are distinctive and positive attributes which seek to positively define the prevailing character and appearance of the area. It is in this context that I find that significant harm has been caused to the character and appearance of the area and to the significance of the BLI.
12. I accept that there are a very small number of porches elsewhere in the street. However, these are the exception rather than the norm. Moreover, it is noteworthy that the Council comment that planning permission was not sought for them. Furthermore, I noticed on my site visit that some of the porches that do exist are not as bulky or imposing as the porch which is the subject of this appeal.

Planning Balance and Conclusion

13. I conclude that significant harm has been caused to the character and appearance of the area and to the significance of the BLI. In weighing in the balance disability and accessibility considerations, I find that a refusal of planning permission is a proportionate and necessary approach to the legitimate aim of ensuring that the character and appearance of the area, and significance of the BLI, is preserved. I find that the scale of the harm caused to the non-designated heritage asset, and hence the loss of its significance, is not outweighed by the personal circumstances outlined by the appellant.
14. I conclude that the protection of the public interest cannot be achieved by means that are less interfering of the Article 8 rights of the family. Therefore, while I acknowledge the personal circumstances of the appellant's family, these are not matters which outweigh the planning harm that has been caused by the breach of planning control in respect of my conclusion on the main issue. Therefore, the ground (a) appeal fails.

Ground (g) appeal

15. An appeal on ground (g) is that the period specified in the notice in accordance with section 173(9) of the Act falls short of what should reasonably be allowed.
16. The appellant claims that a period of twelve months is needed rather than the stated three months. He says this is because the removal of the porch would render the property '*inhabitable*' and make the '*whole family homeless*'. I recognise that the removal of the porch would lead to some inconvenience for occupiers of the property. However, the appellant's comment that its removal would render the property inhabitable and make the whole family homeless is not reasonably substantiated.
17. It may be possible, for example, to access the property from the rear while the porch is being removed and to make some internal alterations to it at the same

time. The appellant provides no information about this possibility, and, in my judgement, the evidence is not sufficiently precise or unambiguous in terms of demonstrating that compliance with the notice would make the family homeless.

18. Even if the removal of the porch did have the sort of impacts as outlined by the appellant, he has not substantiated why a period of twelve months, as distinct from three months, to *'reconfigure the internal arrangement of the property'* would be needed.
19. On the evidence that is before me, I find that a compliance period of three months strikes a reasonable and proportionate balance between bringing the unauthorised development to an end in the public interest, and ensuring that the appellant has reasonable time to remove the porch. I find that the compliance period is therefore reasonable and proportionate when considering the rights of the family under Article 8 of the HRA.
20. I therefore conclude that the ground (g) appeal 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).

D Hartley

INSPECTOR