



Appeal Decision

Site visit made on 16 January 2025

by **Laura Renaudon LLM LARTPI Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 29 April 2025

Appeal Ref: APP/Z4718/C/23/3334813

34 THORNCLIFFE ESTATE, Staincliffe, BATLEY, WF17 7BG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Mohammed Razzak against an enforcement notice issued by Kirklees Metropolitan Council.
- The notice was issued on 31 October 2023.
- The breach of planning control as alleged in the notice is Without planning permission, erection of a detached outbuilding.
- The requirements of the notice are to (1) permanently dismantle and remove the detached outbuilding from the site; and (2) remove all dismantled resulting material from the site.
- The period for compliance with the requirements is 60 days.
- The appeal is proceeding on the grounds set out in section 174(2)(a) (f) and (g) of the Town and Country Planning Act 1990 (as amended).

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

Application for costs

1. An application for costs has been made by the Council against the appellant. This application is the subject of a separate decision.

Preliminary Matters

2. Upon being notified of the appeal, the Council did not confirm that the relevant fee had been paid, and accordingly the parties were informed in January 2024 that the deemed planning application arising from the appeal on ground (a) had lapsed. Consultation was carried out on this premise. Later it emerged that the relevant fee had in fact been paid to the Council, and accordingly in January 2025 the ground (a) appeal was reinstated and the Council directed to re-consult interested parties.
3. National planning policy has changed in recent months. However the changes do not appear to affect the main issues arising in the appeal and thus I have not needed to refer back to the parties.

Main Issues

4. The notice referred to two reasons for the Council having previously refused planning permission for the same development: first, its visual impact and effects on the character and appearance of the area, referring to the Kirklees Local Plan policy LP24; and secondly its effects on parking provision and highway safety, referring to Local Plan Policies LP21 and LP22. The notice then identified the development as being contrary to design policy LP24 of the Local Plan, omitting any reliance on the other policies. The Council's subsequent appeal statement identified a conflict with policy LP24 as well as with design principles 15 and 16 of its house extensions and alterations supplementary planning document and with Chapter 12 of the National Planning Policy Framework.

5. Thus it appears that the Council has dispensed with any reliance on any adverse effects of the development on parking provision or highway safety. The main issue arising in the deemed planning application under the appeal on ground (a) is therefore the effects of the development on the character and appearance of the area. A related issue is the existence of a previous Inspector's appeal decision dismissing an appeal against the refusal of planning permission for the same development, and whether there has been any material change in circumstances that might warrant a different decision now.
6. The questions arising under grounds (f) and (g) are whether the steps required by the notice exceed what is necessary to remedy the breach of planning control, and whether the period given for compliance is unreasonably short.

Reasons

The deemed planning application: the appeal on ground (a)

7. The previous Inspector concluded that the building would result in unacceptable harm to the character and appearance of the area, contrary to Local Plan Policy LP24 which seeks, among other things, to ensure that proposals promote good design by ensuring the form, scale, layout and details of development respect and enhance the character of the townscape.
8. The building has the general appearance of a domestic garage although unfinished and largely empty at the time of my site visit. It is rather large for the property it serves, and its front elevation maintains the building line on the main Thorncliffe Estate road. However, it lies on a corner plot and directly abuts the footway to the north-east spur road of the estate, thus obstructing the building line there and detracting from the spacious feel of the estate at that point. I have no reason to depart from the previous Inspector's conclusions as to the building's detrimental impacts on the area's character for the reasons then given, and similarly conclude that it contravenes the provisions of the development plan for the area.
9. The appellant points out that the previous application was to form an annexe on site, whereas now the proposal is for a garage building. I do not understand the building itself to differ significantly, if at all, in form or scale from that considered by the previous Inspector. The different proposed use might affect the parking and highway considerations, which are not now relied upon by the Council as a reason to object to the development. However the use of the building, whether for additional living accommodation or as a garage, does not affect its overall appearance or its impact on the character of the neighbourhood. Therefore this different proposed use of the building is not sufficient to overcome the concerns identified by the previous Inspector.
10. It is also submitted that the development is consistent with similar garages and outbuildings in the area. None have specifically been identified and upon visiting the site and its surroundings I did not witness any comparable developments.
11. The building contravenes the provisions of the development plan for the area, specifically policy LP24 relating to design, and no material considerations have been drawn to my attention that might indicate a different decision. The appeal on ground (a) will fail.

12. A number of letters in support of the appeal have been received, with neighbours of the appellant considering the building to be acceptable and for a garage building to be necessary for the appellant's van. The outcome of this appeal does not prevent a successful application being made for a different garage that does not produce the same impacts. Whilst the different views about the acceptability of the structure are noted, I do not have adequate grounds upon which to disagree with the previous Inspector.

The appeal on ground (f)

13. The appellant suggests that the existing structure can be adopted and altered without complete demolition, but the allegation is of the erection of the outbuilding and to remedy that breach complete demolition would be required. No alternative scheme is before me for consideration that might involve lesser steps than complete demolition. The appeal on ground (f) will fail. That does not preclude the appellant from discussing alternative schemes with the Council.

The appeal on ground (g)

14. The appeal on ground (g) is made on the basis that a 60 day period for compliance in winter, including a Christmas shutdown, is impractical. Because an appeal has been brought, the period for compliance with the notice will run from the date of my decision and will not involve a Christmas shutdown. No alternative period for compliance has been suggested by the appellant and it is not said why a 60 day period is impractical; just that it is.
15. In the absence of any materially changed circumstances having been identified since the previous Inspector's decision was issued, and in the absence of any alternative scheme for consideration under the ground (f) appeal, it has been high on inevitable that the notice will be upheld. Given the period that has elapsed to date I see no reason to extend the period for compliance which does not appear unreasonably short. The works required are the demolition and removal of the building which do not involve highly specialised skills, and it is not suggested that contractors could not be engaged within such a period. Therefore the appeal on ground (g) will also fail.

Conclusion

16. For the reasons given above I consider that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decision

17. The appeal is dismissed and the enforcement notice upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Laura Renaudon

INSPECTOR