



Appeal Decisions

Site visit made on 18 March 2025

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2025

Appeal A Ref: APP/E2001/C/24/3337148

Appeal B Ref: APP/E2001/C/24/3337149

Welton Rise, Kidd Lane, Welton, East Riding of Yorkshire HU15 1PH

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeals are made by Mr Simon Bentley Rawson and Mrs Emily Rebecca Rawson against an enforcement notice issued by the East Riding of Yorkshire Council.
 - The notice was issued on 13 December 2023.
 - The breach of planning control as alleged in the notice is without planning permission, operational development comprising of the erection of a single storey extension to the front and side elevation of the dwellinghouse, and the erection of a two storey garage and gymnasium connected to the rear of the dwellinghouse by means of the erection of a single storey link extension all as shown in the photographs attached to the enforcement notice.
 - The requirements of the notice are to:
 1. Remove the single storey front and side extension and the two-storey garage and gymnasium and its single storey link extension to rear shown on the photos attached to the enforcement notice and as outlined in pink on the plan attached to the notice (Plan 1).
 2. Restore the dwellinghouse to its original condition including reinstatement of original window and door openings to their previous positions using materials to match the host dwelling; and,
 3. Remove all resultant debris materials arising as a result of compliance with the above.
 - The period for compliance with the requirements is six months.
 - The appeals are proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended).
-

Appeal C Ref: APP/E2001/W/24/3338239

Welton Rise, Kidd Lane, Welton, East Riding of Yorkshire HU15 1PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr S Rawson against the decision of the East Riding of Yorkshire Council.
 - The application Ref is 23/03366/PLF.
 - The development proposed is described as 'erection of single storey extension to the front and side, and two storey double garage to rear following demolition of an existing garage and conservatory (Resubmission of 22/01214/PLF) (Retrospective).'
-

Decisions

Appeal A and Appeal B - APP/E2001/C/24/3337148 & APP/E2001/C/24/3337149

1. It is directed that the enforcement notice is varied by:
 - 1) Deleting requirement number two in section five of the enforcement notice and replacing it with the following requirement: 2) *Restore the dwellinghouse to its condition before the breach of planning control took place including reinstatement of window and door openings to their previous positions using materials to match the host dwelling; and,*

2. Subject to the variation, the appeals are dismissed, and the enforcement notice is upheld.

Appeal C – APP/E2001/W/24/3338239

3. The appeal is dismissed.

Appeal A and Appeal B

The Enforcement Notice

4. The appellants raised the matter about whether the notice was properly authorised, although later conceded that the notice was correctly authorised, and I need not consider this further.
5. In respect of expediency, any challenge as to whether it was 'expedient' for the Council to issue the notice must be pursued by way of judicial review; since I have no jurisdiction to determine whether the Council complied with section 172.
6. Section 173(10) of the Act provides that an enforcement notice must specify such matters as may be prescribed in regulations. Regulation 4 of The Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002 states that an enforcement notice shall specify the reasons why the local planning authority consider it expedient to issue the notice.
7. As the appellants pointed out, the reasons for issuing the notice are taken from the reasons for refusal of a previous planning application which was in part retrospective. Despite the inelegant use of the verb 'would,' it is clear from the reasons for issuing the notice, the harm alleged and why the Council considered it expedient to take action.
8. The notice does not give rise to any fundamental misunderstanding about what makes the developments unacceptable to the Council, and it is evident from the appellants' submissions that they understood the alleged harm. There is no basis to quash the notice on the grounds that it is a nullity or invalid in some way.

Appeal A and Appeal B on ground (f)

9. The appeal on ground (f) is that the requirements of the notice exceed what is necessary. The purposes of an enforcement notice are set out in section 173 of the Act and are to remedy the breach of planning control by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land *or by restoring the land to its condition before the breach took place* [my emphasis] (s173(4)(a)), or to remedy injury to amenity (s173(4)(b)).
10. In this case since the notice requires the single storey extension, garage building and link extension to be removed and, as varied, the dwelling restored to its condition before the breach took place, its purpose is to remedy the breach of planning control.
11. In respect of the link extension, the appellants' case that since there was no specific harm identified, the notice should be amended accordingly, is a matter which relates to and requires a consideration of planning merits.

12. However, where there is no appeal under ground (a) consequently there is no deemed application for planning permission, as such there can be no arguments about the planning merits of the development under ground (f). The only consideration is whether the requirements exceed what is necessary to achieve the identified purpose.
13. The appellants also argued that some alterations may not have constituted development or could have been carried out as permitted development however, there are no details before me.
14. The scope of an enforcement notice is limited by section 173(4)(a) and (b) of the Act, such that the recipient cannot be required to undertake works that would go beyond remedying the breach. No matter how the works are specified, the most that they can achieve is compliance with a planning permission or restoration of the land to its previous condition.
15. In this respect there is ambiguity in the term 'original' since this could mean in the dwelling as first built, which may not be what existed prior to the breach taking place. However, the requirements can be varied, as set out in my decision above.
16. Since the requirements, as varied, would do no more than to seek to achieve the purpose of the notice, to remedy the breach of planning control, they are not excessive. The ground (f) appeals succeed to the extent set out.

Appeal A and Appeal B on ground (g)

17. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellants suggested a period of 12 months, based on the time it would take to carry out the necessary preparatory work, including giving notice of demolition to the Council under the Building Act, which may involve the submission of a scheme of works and to appoint contractors and to restore the dwelling.
18. The purpose of the time period within an enforcement notice is to allow for the physical works associated with the notice to be carried out. The appellants' submission largely relates to the time before works can commence.
19. Whilst the appellants' concerns are understandable, in the absence of substantive explanation about the availability of contractors and having regard to comments from the Council's Building Control department, I consider the period of six months as specified in the notice, is proportionate to the breach of planning control that has occurred. The appeals on ground (g) fail.

Appeal C

Preliminary Matter

20. Since the appeal was made the Council have adopted the East Riding Local Plan Update 2025 – 2039 (the Local Plan) which replaced the Local Plan (2016). The Council were asked to confirm and provide copies of policies from the plan, which they intend to rely on. The appellant was given the opportunity to provide comments in relation to those policies and those comments have been considered.

Main issue

21. The main issue is whether the single storey extension and two storey garage and gymnasium preserve or enhance the character or appearance of the Welton Conservation Area (WCA).

Reasons

22. In the Conservation Area Appraisal for Welton it is stated that the special character and appearance of the WCA has been created by the disposition of the buildings in its historic core so that they focus onto the Church. Further, that this 'jewel' in the crown' appears as an 'island', an impression enhanced by the clear stream flowing down its northern side to the pond at its west end. As such it is unique as a village centre in the East Riding.
23. It is also stated that around this core the village has a significant number of listed buildings, many close to the Church. Often generous curtilages enhance the spacious feeling as do the trees and greenery. There is also a pleasant balance between its predominant architectural styles – Georgian and Victorian.
24. Welton Rise is a former vicarage. It is a handsome Victorian red brick dwelling with architectural detailing including half-timbered gables featuring mock Tudor framing and projecting bays, along with sash windows consisting of multi-panes to the upper and single panes to the lower sash. It is set in relatively generous landscaped grounds, surrounded by mature trees on all sides.
25. Given its association with the Church, together with the attractive Victorian architecture and pleasant, mature, landscaped grounds, Welton Rise makes a positive contribution to the significance of the WCA. Indeed, it is identified as an unlisted building of particular significance in the WCA appraisal.
26. It is acknowledged in the WCA appraisal that there is variety in terms of construction materials, put down to Welton's proximity to the Humber which probably gave it access to materials from further afield. It is also stated that red/brown clamp bricks found almost universally in these parts of the East Riding are equally apparent in Welton, which I observed. Whilst there is some variety in materials, my attention has not been drawn to, nor did I observe bricks of a dark or black colour.
27. There are examples of contemporary built form within the WCA, and I had regard to those properties, known as Xanadu and Welton Forge. New development need not imitate surrounding built form, and a contemporary contrasting design can be a legitimate design solution.
28. In this case the single storey extension projects forward of the grand and impressive front elevation of the dwelling and has an awkward relationship, overlapping a principal section of the front elevation. Together with the flat roof form, which includes a fairly deep parapet, and use of uncharacteristic black brick, the extension appears as a discordant addition.
29. Whilst stone has been used as coping and a lintel and the glazing designed to reflect that in the dwelling, the resulting extension neither successfully harmonises nor contrasts with the architectural style or character of the dwelling and appears as a significantly incongruous addition. The green roof and proposed living wall would not overcome this harm.

30. It may not be uncommon for more ancillary buildings to project forward of principal elevations, noting the example at 4 Church Street. However, in that case the extension retains an element of subservience and does not detract from the appearance of the principal facade or dwelling. In contrast, the extension in this case has an incongruous appearance which detracts from and diminishes the value of the front elevation.
31. The garage is located to the rear of the dwelling and replaces a former single storey garage building. The garage is reasonably large but given the scale of the dwelling and grounds, this alone is not materially harmful, nor do I consider that it harmfully reduces the sense of openness.
32. However, the roof pitch is shallower than in the roof forms of the existing dwelling, which together with the limited overhang and solid to void ratio, results in an incongruous appearance, which is exacerbated by the extensive use of black bricks which contrast starkly with the red brick of the dwelling. The addition of brick detailing would not overcome this.
33. Whilst no harm was identified in respect of the link extension, it would not be appropriate to issue a split decision since it is physically and functionally linked to the garage building.
34. For the reasons given, the single storey extension and garage adversely affect the appearance of the dwelling, detracting from its contribution to the WCA. As such, it follows that the developments fail to preserve or enhance the character or appearance of the WCA.
35. There are limited public views of the extension and garage due to the relatively tall boundary treatments and mature screening, and views from those nearest neighbouring dwellings will be mostly filtered. However, I am mindful that the statutory requirement relating to the desirability of preserving or enhancing the character or appearance of conservation areas is not dependent on public views of relevant changes.
36. Given the scale of the proposal within the context of the Conservation Area as a whole, I consider the harm to be less than substantial. Nevertheless, I am mindful that the National Planning Policy Framework (the Framework) says great weight should be given to the conservation of a designated heritage asset and any harm to such assets should require clear and convincing justification.
37. Moreover, that where a proposal would lead to less than substantial harm to the significance of such an asset, that harm should be weighed against the proposal's public benefits including, where appropriate, securing its optimum viable use. This requires a balancing exercise of harm against the public benefits of the proposal.
38. It is stated in the appellant's submissions that the previous conservatory was in a precarious state, and that although it had historic origins, it was in extremely poor condition and was considered a detracting feature to the appearance of the dwelling. Nevertheless, given that it has been demolished, any affects it had on the character and appearance of the dwelling and Conservation Area no longer exist. It's former presence therefore carries limited weight.
39. I acknowledge that the dwelling was suffering subsidence problems which resulted in the demolition of the garage and the dwelling being vacated. The appellant also

stated that the single storey extension and garage have improved the standard of accommodation in the dwelling, making it a more pleasant place in which to live, thus securing the long-term retention. However, since there is no evidence that the appeal developments are the only means by which such improvements could be achieved, this is a matter of little weight.

40. Consequently, the public benefits do not outweigh the great weight that I am required to attach to the heritage asset's conservation. The single storey extension and garage do not accord with the design and heritage protection aims of Policies ENV1 and ENV3 of the Local Plan, which together require high quality design that contributes to a sense of place, and which conserves the character, appearance and setting of designated and non-designated heritage assets. It also fails to accord with national policy which seeks to conserve and enhance the historic environment.
41. There is also conflict with the Councils design code¹ which advises that when extending an existing building, proposed elevational and roofing materials must match the existing colour, size, and texture of the host building, and that for changes to existing buildings the proportions and design of new windows and doors should match those of the existing windows.

Other matters

42. I have had regard to the planning history and acknowledge the appellant's misgivings about the actions of the Council. However, these have no bearing on the planning merits of the development and the outcome of the appeal.

Conclusion

43. For the reasons given, I conclude that Appeal A and Appeal B should not succeed. I shall uphold the enforcement notice with a variation.
44. For the reasons given, Appeal C should be dismissed.

Felicity Thompson

INSPECTOR

¹ East Riding Design Guide Householder Development April 2025