



Appeal Decision

Site visit made on 15 April 2025

by **C Rafferty LLB(Hons), Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 07 May 2025

Appeal Ref: APP/Z4718/C/24/3344445

Mellbreak, 161 Causeway Side, Linthwaite, Huddersfield HD7 5SJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Khalil Rad against an enforcement notice issued by Kirklees Metropolitan Council.
 - The notice was issued on 9 April 2024.
 - The breach of planning control as alleged in the notice is without the benefit of planning permission, erection of dormer extension to the rear of the property (within a Conservation Area).
 - The requirements of the notice are to:
 - a) Permanently dismantle and remove the rear dormer extension from the site;
 - b) Following step a), re-roof the dwelling to match that which existed prior to the development taking place;
 - c) Remove all dismantled resulting material from the site.
 - The period for compliance with the requirements is: 90 days.
 - 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. It is directed that the enforcement notice is varied by the deletion of the words “90 days” as the times for compliance, and their substitution with the words “6 months”.
2. Subject to the variation, 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.

Appeal on ground (a)

3. An appeal on ground (a) is brought on the basis that planning permission ought to be granted for the breach of planning control stated in the notice. Where an appeal on ground (a) is duly made, an application for planning permission is deemed to have been made.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area, including whether it would preserve or enhance the character or appearance of the Linthwaite Conservation Area (the CA), and whether it would preserve the setting of listed buildings.

Reasons

5. The appeal site is a detached dwelling with a hipped roof on Causeway Side, close to the junction with Gillroyd Lane. It is in the CA, the significance of which is derived from its architectural and historic interest as a former weaver’s village settlement.

This is evident in the examples of dwellings with a traditional appearance set along narrow, sloping streets, including the Grade II Listed Buildings of 211-213 and 215-219 Lane Top (the Listed Buildings) to the north-west of the appeal site.

Character and Appearance, Conservation Area

6. Causeway Side is a wide street with properties of a notably more contemporary appearance than elsewhere in the CA. However, in the immediate vicinity of the site, these are set down within the hillside and, from the street, largely read as being of simple shape and modest dimensions. This ensures that this section of Causeway Side does not unduly detract from the overarching character of the CA.
7. The development is a rear dormer extension at the appeal property. It sits below the main ridge of the roof and has a somewhat symmetrical design. However, running along the entire width of the dwelling, it is a sizeable addition that fails to respect the otherwise modest dimensions of the property. Even noting the set-down of the appeal property and the boundary treatments in place, the dormer is readily visible from Causeway Side and Gillroyd Lane due to its projection beyond the side slopes of the hipped roof. Experienced from these locations, the contrasting materials of the dormer fail to successfully integrate with the main roof and its scale overwhelms the dwelling.
8. The design and appearance of the properties along Causeway Side is varied, with other examples of alterations and dormers. However, it remains that nearby dormers are subtle, subservient features. In this context, the scale of the development is visually jarring and highlighted as out of place. The location of the site towards the top slope of Causeway Side and at the entrance to the CA causes the dormer to be a prominent and distracting feature in the immediate surrounds, where its incongruous nature is evident.
9. My findings are supported by the failure of the development to comply with the Kirklees Council House Extensions and Alterations SPD, June 2021 (the SPD). Among other things, this states that dormer windows should relate to the appearance of the house and existing roof, be designed in style and materials similar to the appearance of the existing house and roof, and not dominate the roof. While this is guidance rather than policy, it remains a material consideration.
10. In accordance with my statutory duty I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA. For the above reasons, the development causes visual harm to the site and makes a negative contribution to the surrounding character and appearance. Even noting its position at the edge of the CA, it neither preserves nor enhances the character or appearance of the CA. These effects are localised, such that they equate to 'less than substantial' harm. I will turn to the heritage balance below.

Listed Buildings

11. The Listed Buildings to the north-west of the appeal site comprise terraced dwellings constructed from stone and slate dating from the 19th century. Among the mixed built form of the wider area, they provide a clear example and understanding of traditional development from this era and, as such, derive significance from both their historic and architectural interest.

12. The significance of heritage assets can be harmed by development in their setting, being the surroundings in which the assets are experienced. The appeal site is in the setting of the Listed Buildings, sitting in an elevated position to the south-east. While the development of the Causeway Side dwellings has altered the original setting, those in the vicinity appear largely modest in scale and simple in shape, ensuring they do not unduly impact the appreciation of the Listed Buildings.
13. Due to the overall scale and massing of the development, combined with its proximity and elevated position, it appears obtrusive when viewed in conjunction with the Listed Buildings. The flat roof and use of contrasting external materials appear unduly contemporary and jarring in the immediate setting. Overall, the development visually competes with the Listed Buildings, detracting from them and the ability to appreciate them.
14. In accordance with my statutory duty I have had special regard to the desirability of preserving the Listed Buildings or their setting or any features of special architectural or historic interest. For the given reasons, the development makes a negative contribution to the setting of the Listed Buildings. It therefore fails to preserve their setting and harms their significance. I also find the harm arising in this case to be less than substantial.

Heritage Balance

15. The Framework is clear that great weight should be given to the conservation of heritage assets. It specifies that where a development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
16. The appellant has stated that the appeal property was formerly in a dilapidated condition which the works have addressed, and that it has provided enhanced and enlarged living accommodation at a previously cramped dwelling. Even if I were to find these to amount to public benefits, given the great weight attached to the conservation of heritage assets, they would not outweigh the identified harm.
17. For the reasons given, the development has a significant adverse effect on the character and appearance of the area, fails to preserve or enhance the character or appearance of the CA, and fails to preserve the setting of the Listed Buildings. As such, it fails to comply with Policies LP2, LP24, and LP35 of the Kirklees Local Plan Strategy and Policies 2019, the SPD, and the provisions of the National Planning Policy Framework insofar as they seek to ensure high quality and well-designed development that respects the surrounding character and preserves or enhances the significance of designated heritage assets.

Other Matters

18. The appellant was unaware of the need for planning permission and I note the submissions alleging that they were ill-advised by the Council in this regard and outlining the resulting financial strain. However, it remains that the structure comprises development for which planning permission is required and I must make my assessment on this basis.

19. It is agreed between the main parties that the development would not result in harm to the living conditions of occupiers of surrounding property. This represents a lack of harm, neutral in the planning balance.

Conclusion

20. For the reasons given above, I conclude that the appeal on ground (a) should not succeed, and I shall refuse the deemed application for planning permission.

Appeal on ground (g)

21. An appeal on ground (g) is brought on the basis that the time period for compliance in the notice falls short of what should reasonably be allowed.
22. The notice gives 90 days for compliance. However, given that the development is fully integrated within the appeal property, I find that this timescale may be challenging. It will be necessary to prepare technical drawings, tender for builders, schedule the works, and then undertake the works, all of which could reasonably take some time.
23. I accept that the appellant stands to lose a part of their home and acknowledge the assertion that the family may need to vacate the property during the works. Nevertheless, I find the compliance period of 12 months as sought by the appellant to be excessive in the circumstances, given the great weight which is attached to the conservation of designated heritage assets. I shall therefore vary the notice to allow a compliance period of 6 months. This would be proportionate and would ensure that the identified planning harm is dealt with in the necessary expedient manner.
24. The appeal on ground (g) therefore succeeds to a limited extent.

Overall conclusions

25. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

C Rafferty

INSPECTOR