



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/24/3347400

51 Woodside Road, Beaumont Park, Huddersfield HD4 5JF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Raheel Akhtar against an enforcement notice issued by Kirklees Metropolitan Council.
 - The notice was issued on 24 May 2024.
 - The breach of planning control as alleged in the notice is without the benefit of planning permission, the erection of a structure in the rear garden.
 - The requirements of the notice are to: remove the structure in its entirety.
 - The period for compliance with the requirement is: 60 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. It is directed that the enforcement notice is corrected by the addition of the words: “as shown edged red on the attached Site Plan” after the words “Land and property at 51, Woodside Road, Beaumont Park, Huddersfield, HD4 5JF” in section 2.
2. Subject to the correction, 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.

Enforcement Notice

3. A plan is appended to the notice, showing the land to which the notice relates edged in red. However, no reference to this plan has been made in the notice. In accordance with section 176(1)(a) of the 1990 Act I can correct the description of the land to which the notice relates to include reference to the plan. I can make this correction without injustice to the appellant or the local planning authority.

Appeal on ground (a)

4. 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

5. The main issue is the effect of the development on the character and appearance of the area.

Reasons

6. The site is a detached two-storey dwelling fronting Woodside Road, with a sizable rear garden backing onto the rear boundary of No. 78 Beaumont Park Road. The area is residential, generally made up of dwellings with generous garden space.
7. The structure subject to the enforcement notice is a steel frame with netting along the side elevations and a fabric roof, and has been erected on the western edge of the site. It runs along a significant portion of the boundary with No. 53 Woodside Road and a section of that with No. 78 Beaumont Park Road, rising above the boundary fencing present.
8. I observed the overall dimensions of the garden at the site and the positioning of the structure at its edge against the backdrop of tall planting. Nevertheless, it remains that the development, due to its height and ground coverage, is a sizeable and dominant addition. As a result of its scale it is readily experienced by occupiers of immediately surrounding dwellings where its substantial size is clearly visible, lending it a prominence in the vicinity.
9. In addition, the materials used in its construction, though lightweight, appear out of place in the context of the site and its surrounds. During my visit I did not observe nearby gardens to contain features of a similar type or constructed from comparable materials, adding to the visually jarring nature of the structure at the site. Overall, the development reads as a prominent and incongruous feature that fails to successfully relate to the appeal site or its surrounds.
10. For the reasons given, the development has a significant adverse effect on the character and appearance of the area. As such, it fails to comply with Policy LP24 of the Kirklees Local Plan Strategy and Policies 2019 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.

Other Matters

11. The Council's Statement of Case refers to the development having an overbearing impact on the rear amenity spaces of No. 53 Woodside Road and No. 78 Beaumont Park Road. The reasons for issuing the notice, and the cited policies, do not refer to the effect of the development on the living conditions of nearby occupiers. Furthermore, notwithstanding my findings above, there is nothing substantive, either before me or observed on site, to suggest the development would have a significant adverse effect in this regard, given the dimensions of the neighbouring spaces and the various boundary treatments.
12. The Council has cited guidance from the Kirklees House Extensions and Alterations Supplementary Planning Document 2021 relating to outbuildings, which it states the development fails to comply with. It does not fall to me to assess as part of this appeal whether the structure comprises an outbuilding. Nevertheless, I have found that it would create harm to the character and appearance of the area for the reasons given.
13. I note that the appellant was unaware of the need for planning permission. While this is unfortunate, it remains that on the information before me the structure comprises development for which planning permission is required and I must make my assessment on this basis.

14. The proposal would provide a facility for a member of the family that has additional needs, allowing for a safe and controlled environment for outdoor activity that is crucial to their development and wellbeing, and providing other benefits in this regard. In considering this appeal I have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010, in particular the need to eliminate discrimination, advance equality of opportunity and foster good relations between those with protected characteristics and others. Following careful consideration of these particular matters I am satisfied that the impact of dismissing this appeal is proportionate and justified.

Alternative Scheme

15. Prior to my visit, the height of the structure was reduced and the fabric roof cover was removed. Section 177(1)(a) of the 1990 is clear that planning permission may be granted in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters. Whether or not the alternative scheme amounts to part of the matters and may be permitted is a question of planning judgement.
16. On the information before me, there is nothing to suggest that the alternative scheme necessitated building operations which did not form part of the development as enforced against. It appears to be wholly in the same use as that development and falls entirely within its dimensions and footprint. Overall, given my observations of the physical and functional attributes of the alternative scheme on site, I am satisfied that it can reasonably be regarded as part of the matters stated in the notice as constituting a breach of planning control.
17. Nevertheless, the alternative scheme remains incongruous within the surrounds. Despite the reduction in height, it is still sizeable and reads as unduly dominant in the context of the site and neighbouring residential gardens. Its external appearance, even without the fabric roof, fails to respect or reflect the immediately surrounding character in the same manner as the development that has been enforced against, such that it overall reads as out of place.
18. As such, the alternative scheme also results in undue harm to the character and appearance of the area, contrary to the above cited policies. The harm identified is not outweighed by any of the other matters considered above, including the Public Sector Equality Duty. The ground (a) appeal therefore fails with regard to the alternative scheme.

Conclusion

19. 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.

Overall conclusions

20. 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