



Appeal Decision

Site visit made on 2 September 2025

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

an Inspector appointed by the Secretary of State

Decision date: 09 September 2025

Appeal Ref: APP/Z4718/C/24/3357437

14 Thornhill Park Avenue, Dewsbury WF12 0DA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Amir Azam against an enforcement notice issued by Kirklees Metropolitan Council.
 - The notice was issued on 6 December 2024.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a dwelling house.
 - The requirements of the notice are to:
 - a) Dismantle and permanently remove the dwelling, including the base and foundations, in its entirety.
 - b) Remove all dismantled resulting material from the site.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f), (g) of the Town and Country Planning Act 1990 (as amended)
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. Comments have been received by interested parties regarding the planning merits of the as-built development. However, in the absence of a ground (a) appeal, it is not for me to assess the planning merits as part of this decision.

Appeal on ground (f)

3. An appeal on ground (f) is brought on the basis that the requirements of the notice exceed what is necessary. Section 173(4) of the 1990 Act sets out the purposes which an enforcement notice may seek to achieve. They are either: (a) remedying the breach of planning control; or (b) remedying any injury to amenity which has been caused by the breach.
4. Section 173(4) is clear that a notice can remedy the breach of planning control by: making the development comply with the terms 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. Given that the requirements of the enforcement notice are to remove the dwelling and all resulting materials, the purpose of the notice is to remedy the breach of planning control.
5. The appellant argues the steps required by the notice exceed what is necessary. In this regard they refer to planning permission 2022/62/91990/E granted in respect of the site on 20 October 2022, arguing that the breach could be remedied by the lesser steps of reinstating the dwelling to that approved by this permission. In this

regard, I acknowledge that where the purpose of the notice is to remedy the breach of planning control, an enforcement notice may be varied to allow for the alleged development to be modified in accordance with a granted planning permission.

6. However, to do so, the planning permission in question must be both extant and capable of implementation. In this case, planning permission 2022/62/91990/E is extant and, at the time of writing, has not lapsed. However, this permission was for the 'erection of extensions and alterations' at a dwelling on the appeal site that no longer exists. Accordingly, this planning permission is not capable of implementation and the notice cannot therefore be varied to refer to these steps.
7. The appellant has also suggested that lesser steps could relate to requiring removal of any sections of the as-built dwelling that I find fault with. However, in the absence of a ground (a) appeal, I am unable to consider the planning merits of either the as-built development or any alternative scheme. Similarly, while the appellant also refers to exploring a compromise scheme with the Council, no further information on what such a scheme may involve has been given and, in the absence of a ground (a) appeal, I could not explore its planning merits in any event.
8. For these reasons, the above steps suggested by the appellant would not remedy the breach of planning control. I observed the site during my visit, and noted the presence of the development identified in the enforcement notice. From my observations the only way to remedy the breach would be to remove the development in its entirety, as outlined in the requirements of the notice. Given the purpose of the notice, the requirements are not therefore excessive.
9. The appeal on ground (f) therefore fails.

Appeal on ground (g)

10. 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.
11. The notice gives 6 months for compliance. The appellant argues that this would be insufficient and that a longer period of 12 months would enable them to prepare new drawings for submission and consideration by the Council, undertake any consultation and negotiation, and demolish the current dwelling and construct any future approved scheme. Furthermore, the appellant refers to the need to find a local builder to undertake the works, and state that such works would be complicated as it would involve reducing the size of the dwelling rather than demolishing it completely.
12. However, the notice relates only to the demolition of the dwelling and removal of any resulting materials. There is nothing before me to suggest that this could not be undertaken, and a builder found to do so, within the 6 month period given. This ensures the identified planning harm is dealt with in the necessary expedient manner and is therefore reasonable.
13. The appeal on ground (g) therefore fails.

Other matters

14. I acknowledge that the consequence of dismissing the appeal would be that any person presently residing in the as-built dwelling would be required to vacate. The loss of a person's home would be an infringement of their rights under the Human

Rights Act 1998 (HRA). The demolition of the dwelling would amount to interference and would engage the right for respect for private and family life, home and correspondence set out in Article 8 of the HRA. This is a qualified right, whereby interference may be justified if in the public interest, applying the principle of proportionality.

15. The notice allows for a 6 month compliance period, allowing residents to find an alternative home. The notice also outlines that harm has been identified to the character and appearance of the area and to the living conditions of occupiers of neighbouring dwellings. The harm identified is of such weight that upholding the notice would be a proportionate and necessary response that would not violate those persons rights under Article 8 of the HRA. The protection of the public interest cannot be achieved by means that are less interfering of their rights.
16. Concerns were also raised by interested parties that, should the notice be upheld, demolition works would result in disturbance, including to a minor with additional needs. While this is acknowledged, the public interest of upholding the enforcement notice due to the identified harm outweighs this matter.

Overall Conclusion

17. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

C Rafferty

INSPECTOR