



Appeal Decisions

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 A Ref: APP/Z4718/C/24/3353216

Appeal B Ref: APP/Z4718/C/24/3353217

33 Knaresborough Drive, Fartown, Huddersfield HD2 2PR

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeals are made by Mrs Nazma Shaheen (Appeal A) and Mr Ibrar Hussain (Appeal B) against an enforcement notice issued by Kirklees Metropolitan Council.
 - The notice was issued on 27 August 2024.
 - The breach of planning control as alleged in the notice is without planning permission, engineering operations to regrade the land and the erection of retaining walls and formation of a driveway.
 - The requirements of the notice are to:
 - a) Demolish the retaining wall and return the land to its state prior to the unauthorised works taking place at the site. Following this, remove all resulting material from the site; or
 - b) Build the development in complete accordance with planning permission 2024/90334 which was granted on the 8th May 2024 for "Engineering operations to regrade land with erection of retaining walls and steps and formation of driveway."
 - The period for compliance with the requirements is: 60 days.
 - The appeals are proceeding on the grounds set out in section 174(2) (a), (f), 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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Decisions

1. It is directed that the enforcement notice is corrected by the deletion of the words '2024/90334' from section 5 and their replacement with the words '2024/62/90334/W'. Subject to the correction, the appeals are 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.

Preliminary Matters

2. The appeals were lodged on ground (f) and (g) only. A ground (a) appeal was later added in respect of Appeal A, and the requisite fee was paid. The Council has had the opportunity to provide comments on the ground (a) appeal.

The Enforcement Notice

3. Section 5 of the notice refers to 'planning permission 2024/90334'. However, a copy of this planning permission has been provided, and the reference on the decision notice is given as '2024/62/90334/W'. I can correct section 5 of the notice to include the correct reference without injustice to the appellant or the Council.

Appeal A 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 Issues

5. The main issues are the effect of the development on: the character and appearance of the area; and highway safety,

Character and appearance

6. The appeal site is a dwelling on Knaresborough Drive. Properties on this side of the street are set back from the road behind sloping front gardens, which feature a range of boundary and retaining walls of varying designs, forms, and materials.
7. Planning permission was granted for 'engineering operations to regrade land with erection of retaining walls and steps and formation of driveway'. However, the as-built development does not match the approved scheme. The driveway area is of a reduced depth and the retaining wall is constructed from untreated breezeblock.
8. I observed the development during my visit and found the retaining wall to read as a visually jarring feature. Even among the variety of front garden walls in the surrounds, untreated breezeblock is not common. Where similar materials to this have been used, they are present in small sections, accompanied by additional decorative detailing, or placed in such a manner as to provide articulation. This assists in breaking up the visual dominance of the walls.
9. In contrast, the retaining wall at the site is a sizeable, unbroken expanse of breezeblock. It sits close to the highway and runs across much of the width of the site at a considerable height. It dominates the frontage of the site and reads as a stark and overwhelming addition that fails to reflect or respect that character of the property or the area. Overall, due to its materials and configuration, it is a wholly incongruous feature in Knaresborough Drive that causes notable visual harm.
10. For the reasons given, the development results in harm to the character and appearance of the area. As such, it fails to comply with Policy LP24 of the Kirklees Local Plan, the House Extensions and Alterations Supplementary Planning Document and the provisions of the National Planning Policy Framework, insofar as they seek to ensure development respects the character of the area.

Highway Safety

11. The development creates a parking area, which appears to be of a width for parking two cars. However, compared to the approved scheme, the driveway has a reduced depth, with the Council citing a depth of 4.5m at the as-built development.
12. The Council refers to a s184 agreement that the parking area is to have a minimum depth of 5m, but this has not been provided. Reference is also made to the Highway Design Guide Supplementary Planning Document stating that where the driveway to the garage forms the second parking space, this should be at least 5.6m from the back edge of the footway or hard margin kerb line or 5.0m for a retractable garage door. However, no garage is present at the site.
13. Nevertheless, I observed the site during my visit. A single car was parked in the driveway, which I noted to be parked at a slight angle. While this ensured no highway overhang, there was not enough space for the parking of a second car. As

such, if two cars were parked in the driveway they would need to be in a non-angled manner, which would lead to the cars overhanging onto the footpath.

14. Given the residential nature of the street, this footpath is likely to be well-used by pedestrians in both directions. The overhanging of vehicles from the site onto this footpath would introduce an obstacle that would interrupt pedestrian flow and increase risk of collision or interference with passers-by. Accordingly, due to the limited depth of the driveway, the development impedes the safe and efficient operation of the immediate highway network.
15. For the reasons given, the development has a significant adverse effect on highway safety. As such, it fails to comply with Policy LP21 of the Kirklees Local Plan, the Highways Design Guide Supplementary Planning Document and the provisions of the National Planning Policy Framework insofar as they seek to ensure a safe and efficient highway network.

Other Matters

16. The appellants' evidence refers to an alternative scheme in respect of the retaining wall. Reference is made to changing the colour of the brick through rendering to match the streetscene. Limited information on this is provided and I did not observe a similar approach to retaining walls in the area. In any event, the wall would remain as an unarticulated expanse of unbroken built form, remaining an overly dominant feature on the streetscene, even with the render in place. As such, this alternative scheme would still result in visual harm. Rendering would also reduce the depth of the driveway space, further contributing to the overhang of vehicles onto the highway.
17. Reference is also made to driveways and overhanging of vehicles at other properties. However, I do not have information as to the planning status of these driveways. It remains for the reasons given that the development results in harm to highway safety and the presence of other driveways nearby does not alter this.
18. I note the area to be heavily parked, and that disputes have arisen in this regard. The development enables a family member with additional needs to have a dedicated parking space. 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.

Appeals A and B on ground (f)

19. 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. 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.

20. Given that the requirements of the notice are to restore the land to its previous condition or comply with a granted planning permission, the purpose of the notice is to remedy the breach of planning control. The appellant argues that the steps required by the notice exceed what is necessary. In this regard they refer to changing the colour of the retaining wall at the site through the use of rendering. I have assessed the planning merits of this above and find that it is likely to result in harm to the character and appearance of the area and to highway safety.
21. 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 and to restore the appeal site to its prior condition, or to comply with the previously granted planning permission, as outlined in the requirements of the notice. Given the purpose of the notice, the requirements are not therefore excessive.
22. The appeals on ground (f) therefore fail.

Appeals A and B on ground (g)

23. 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.
24. The notice gives 60 days for compliance. The appellant argues that this would be insufficient and that a longer period would enable them to raise funds for the work, find a competent builder, and ensure the weather conditions are acceptable.
25. No suggestion is provided as to what extended period is required. There is nothing compelling before me to suggest that a builder could not be found to undertake the works in the specified time or that specific weather conditions would be necessary. The appellant has also not provided any objective evidence to indicate that more time is needed to raise funds. The 60 day period ensures the identified planning harm is dealt with in the necessary expedient manner and is therefore reasonable.
26. The appeals on ground (g) therefore fail.

Overall Conclusion

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

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/Z4718/C/24/3353216	Mrs Nazma Shaheen
Appeal B	APP/Z4718/C/24/3353217	Mr Ibrar Hussain