



Appeal Decision

Site visit made on 1 April 2025

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

an Inspector appointed by the Secretary of State

Decision date: 08 October 2025

Appeal Ref: APP/Z4718/C/24/3342421

Land south of 5-25 Clay Well, Golcar, Huddersfield

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr J Bradley (Brierstone Newsome Ltd) against an enforcement notice issued by Kirklees Metropolitan Council.
 - The notice was issued on 2 April 2024.
 - The breach of planning control as alleged in the notice is without the benefit of planning permission, the erection of 8 dwellings.
 - The requirements of the notice are: to demolish the dwellings/buildings and return the land to its condition prior to the development taking place.
 - The period for compliance with the requirements are: 9 months
 - The appeal is 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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Decision

1. It is directed that the enforcement notice is corrected by the deletion of the words “steps 5 (a) or (b) above” from paragraph 6 of the notice and their substitution with the words “step 5 (a) above”.
2. Subject to the correction, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the erection of 8 dwellings at Land south of 5-25 Clay Well, Golcar, Huddersfield as shown on the plan attached to the notice and subject to the conditions set out in Appendix 1 to this decision.

Applications for costs

3. An application for costs was made by the appellant against the Council. This application is the subject of a separate decision.

The Enforcement Notice

4. The steps to remedy the alleged breach of planning control are in paragraph 5 (a) of the notice. In setting out the time for compliance, paragraph 6 of the notice refers to “steps 5 (a) or (b) above”. However, there is no step 5 (b) in the notice.
5. In accordance with section 176(1)(a) of the 1990 Act I can correct the time for compliance to read: “To complete step 5 (a) above”. I can make this correction without injustice to the appellant or the local planning authority.

Preliminary Matters

6. Planning permission was granted for the erection of 13 dwellings¹. The Council alleges that certain dwellings were not constructed in accordance with the approved plans of this permission and has issued multiple enforcement notices in this regard. The enforcement notice before me relates solely to the dwellings at Land south of 5-25 Clay Well, Golcar, Huddersfield and I have proceeded on this basis. Where appeals have been received in respect of other enforcement notices relating to the 13-dwelling scheme, these are the subject of separate decisions.
7. The enforcement notice alleges that the erection of the development in question comprises development without planning permission. I sought commentary from the main parties as to whether the development could comprise a breach of the approved plans condition attached to planning permission 2021/62/91384/W, and have had regard to the responses of the parties. Given the numerous deviations from the approved plans in the external appearance of the as-built development, I am satisfied that the alleged breach in the enforcement notice of development without planning permission is correct.

Appeal on ground (a)

8. 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

9. The main issue is the effect of the proposed development on the character and appearance of the area, including its effect on the setting of Listed Buildings and whether it would preserve or enhance the character or appearance of the Golcar Conservation Area (the CA).

Reasons

10. The site is a group of eight dwellings, being named as plots 4 – 11. They are located in the CA, which derives its significance from both its historic and architectural interest. The CA comprises a former weaver's settlement with an evident village feel. This is reflected in the traditional stone and slate dwellings set around steep slopes and narrow lanes, many of which feature simple front elevations with subtle decorative detailing. Nevertheless, despite the overarching consistency in materials, variations remain in the precise external design of dwellings within the CA as whole.
11. The CA contains several Grade II Listed Buildings, which have been referenced in the notice and wider evidence. These include the cottages at nos. 17-25 Clay Well, the factory/ warehouse and dwellings at nos. 27-29 Clay Well, and the back to back houses at nos. 54, 54A, 56 and 58 Brook Lane. These buildings date from the early to mid 19th century and provide a clear example and understanding of traditional development from this era. As such, they derive significance from both their historic and architectural interest.

¹ 2021/62/91384/W

12. The appeal site sits in a hillside location. The immediate vicinity primarily comprises the established residential development of Hillcrest View to the east, to which the development forms an extension and from which it is accessed. This group of established dwellings has a high level of consistency in design and form. Higher-set dwellings to the north are also visible from the immediate surrounds of the site where, in particular, a variety of fenestration designs and detailing are notable.
13. The enforcement notice alleges that site layout changes have taken place that are not in accordance with the approved plans, with evidence suggesting that the repositioning of the terrace of three dwellings at plots 6-8 has led to less space between these and the terrace of three dwellings at plots 9-11 than is shown on the approved plans.
14. I observed the as-built development on site. When viewed as a whole, the appeal site does not read as cramped. Despite limited front amenity or green space, a generous area is retained to the front of the terraces, separating them from plots 4 and 5 opposite. While the terraces do sit in close proximity to one another, reading as essentially side by side with a small gap between them, this is not out of place in the surrounding context. The immediate vicinity of the site comprises the range of dwellings in Hillcrest View, many of which also sit side by side with modest separation between built form. Furthermore, the wider pattern of development in the CA features numerous examples of tightly packed terraced dwellings with little amenity or green space to the frontage. Within this context, the layout of the appeal site does not read as out of place, or unduly cramped and overdeveloped.
15. Although not listed in the enforcement notice, the Council's Statement of Case also states that the dwellings have omitted several design features included in the approved plans. In particular, it refers to water table stones and quoins that have not been included, loss of glazing bars, and alterations to front entrance doors and garage doors. However, within the surrounding context of varied dwelling designs, the omission of such features does not result in the development reading as an incongruous addition in this part of the CA. In any event, the development is primarily experienced in the context of the Hillcrest View dwellings to the east, with which the external appearance of the development is highly consistent such that it reads as a seamless extension that successfully integrates and assimilates with these dwellings. Overall, the development does not cause visual harm to the site due to either its external detailing or layout, and preserves the character and appearance of this section of the CA.
16. The appeal site sits to the north east of the Listed Buildings at Brook Lane, and to the south of the Listed Buildings on Clay Well, falling within the setting of these heritage assets. The significance of heritage assets can be harmed by development in their setting, and decision makers are required to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest. However, given my findings above and the successful assimilation of the development within its immediate context and thus the setting of the Listed Buildings, I do not find that the as-built development would cause harm to the setting of the Listed Buildings.
17. For the reasons given, the proposal would not have an adverse effect on the character and appearance of the area or on the setting of Listed Buildings and would preserve the character and appearance of the CA. As such, it complies with Policies LP24 and LP35 of the Kirklees Local Plan Strategy and Policies 2019, the

provisions of the Framework, and the Housebuilders Design Guide Supplementary Planning Document insofar as they seek to ensure high quality and well-designed development that respects the surrounding character and preserves or enhances the significance of heritage assets.

Other Matters

18. A section 73 application was submitted to the Council in respect of the appeal site, and subsequently refused, which the Council contends points to the fact that the as-built development would have been refused. I note that the plans submitted with the section 73 application differ from the as built development. In any event, I have made my decision on the planning merits of the scheme before me, and reference to other, refused schemes does not alter my findings above.
19. Interested parties have raised various concerns. These include issues relating to outlook and general concerns regarding the environment and the health and wellbeing of surrounding residents. There is nothing substantive, either before me or observed on site, to indicate the development has led to planning harm in these regards, and I note the Council has not raised such harm in their reasons for issuing the notice. Interested parties have also alleged that further works not covered by the enforcement notice have been carried out without planning permission. However, such works would fall outside the remit of this appeal. Finally, while I also note objections alleging that the development has an impact on property values in the surrounds, this is a matter to which I can afford very little weight.
20. The main parties did not suggest conditions in the event that planning permission was granted for the development. I have been supplied with a copy of planning permission 2021/62/91384/W, in respect of the development of 13 dwellings, which covers the appeal site, and have given the main parties the opportunity to comment on the relevance of these conditions to the development.
21. Those conditions relating to time limits for commencement, adherence to plans, temporary measures during the construction period, and those drafted as pre-commencement conditions are no longer necessary. However, I have attached conditions that certain features are retained for the lifetime of the development in accordance with the approved documents for planning permission 2021/62/91384/W, in the interests of proper planning.
22. Accordingly, I have attached conditions that the following shall be retained: the vehicle parking area, the cycle parking, the electric charging facilities, the bat protection and mitigation measures, the works and arrangements for the storage, access, and collection of waste, and the foul, surface and land drainage scheme. These are necessary in the interests of highway safety, sustainable travel, biodiversity, residential amenity, and flood risk, respectively.
23. Conditions relating to the approval and implementation of boundary treatments and hard and soft landscaping are necessary in the interests of character and appearance, and a condition relating to the approval and implementation of a Biodiversity Enhancement and Management Plan is necessary in the interests of biodiversity. Conditions requiring submission and approval of external lighting and pedestrian connection are also necessary, in the interests of ecology and sustainable transport. There is a strict timetable for compliance with these conditions because permission is being granted retrospectively, and it is not

possible to use a negatively worded condition to secure the approval and implementation of the outstanding matters before the development takes place. I have imposed timescales which I deem to be reasonable.

24. I have attached a condition restricting the fixing of equipment on the elevations of the approved dwellings, necessary in the interests of character and appearance and to preserve and enhance the character and appearance of the CA. Also in the interests of character and appearance, it is necessary to attach a condition restricting permitted development rights at the site. As this restriction has been applied in the surrounds of the appeal site, and is precisely defined, such a condition would pass the tests of reasonableness and necessity. I have also attached a condition that no hedgerows, trees, or shrubs shall be removed between March and August unless approved by the Council, which is necessary in the interests of ecology.

Conclusion

25. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should succeed on ground (a) and planning permission will be granted.

Appeal on grounds (f) and (g)

26. It is unnecessary for me to consider the appeals on grounds (f) and (g) as the enforcement notice will be quashed as a consequence of my decision to allow the appeal on ground (a). I shall therefore take no further action on these grounds of appeal.

Overall conclusion

27. For the reasons given above, I conclude the appeal succeeds on ground (a). I shall grant planning permission for the erection of eight dwellings as described in the notice as corrected. The enforcement notice will be corrected and quashed.

C Rafferty

INSPECTOR

Appendix 1 - Conditions

1. The approved vehicle parking area for the dwellings shall be retained throughout the lifetime of the development.
2. The approved cycle parking for residents of the dwellings shall be retained in accordance with The Site Layout Ref M4419 90 01 F for the lifetime of the development unless otherwise agreed in writing by the local planning authority.
3. The approved electric charging facilities shall be retained in accordance with Site Layout Ref M4419 90 01 F for the lifetime of the development.
4. The approved works and arrangements for the storage access, and collection of waste shall be retained in accordance with Site Layout Ref M4419 90 01 F for the lifetime of the development.
5. The approved foul, surface, and land drainage scheme, including works for storm events and measures to allow for the disposal of surface water from the adjacent site to the west shall be retained in accordance with the following plans and documents for the lifetime of the development:

Construction Mitigation Measures (Drainage) (unreferenced);

Document ref: 1261 SW Drainage + Adj, MicroDrainage Calculations dated 17/01/2022;

Drawing ref: 1261-701, Post Development Areas, Rev P01 dated 17/01/2022;

Drawing ref: 1261-702, Overland Flood Routes, Rev P01 dated Jan 2022;

Drawing ref: 1261-900, Drainage Layout, Rev P02 dated 14/01;

Document ref: 1261 SW Drainage Withou..., MicroDrainage Calculations dated 16/06/2022; and

Drawing ref: 1261-900, Drainage Layout, Rev P04 dated 15/06/2022.

No additional surface water and land drainage works, or deviation from the approved drainage scheme, shall be carried out without the prior written consent of the local planning authority.

6. The approved bat protection and mitigation measures shall be retained in accordance with the 'Bat mitigation strategy' by JCA dated 13/07/2021 (ref: 17029c/Awe Rev 2) throughout the lifetime of the development.
7. Unless within 3 months of the date of this decision details (including sections and details of levels) of all boundary treatments, and any retaining walls and gabions are submitted in writing to the local planning authority for approval, and unless the approved details are implemented within 9 months of the local planning authority's approval, the occupation of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented. If no details in accordance with this condition are approved within 6 months of the date of this decision, the occupation of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented. Upon implementation of the approved

details specified in this condition, that scheme shall thereafter be retained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

8. Unless within 3 months of the date of this decision details of the external lighting, including street lighting, are submitted in writing to the local planning authority for approval, and unless the approved details are implemented within 9 months of the local planning authority's approval, the occupation of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented. If no details in accordance with this condition are approved within 6 months of the date of this decision, the occupation of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented. Upon implementation of the approved details specified in this condition, that scheme shall thereafter be retained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
9. Unless within 3 months of the date of this decision details of the pedestrian connection between the site and public footpath COL/56/40 are submitted in writing to the local planning authority for approval, and unless the approved details are implemented within 9 months of the local planning authority's approval, the occupation of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented. If no details in accordance with this condition are approved within 6 months of the date of this decision, the occupation of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented. Upon implementation of the approved details specified in this condition, that scheme shall thereafter be retained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
10. Unless within 3 months of the date of this decision of all hard and soft landscaping are submitted in writing to the local planning authority for approval, and unless the approved details are implemented within 9 months of the local planning authority's approval, the occupation of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

The details shall include: details of existing and proposed levels, and regrading; details of replacement tree planting; species schedule and planting plans; details of initial aftercare and long-term maintenance; details of monitoring and remedial measures, including replacement of any trees, shrubs or planting that fails or becomes diseased within the first five years from completion; details (including samples, if requested), of paving and other hard surface materials; details of all on-site open spaces (including details of their purpose(s) and management) and of any areas for designated, informal, incidental and/or doorstep play; details of how soft

landscaping has been designed to prevent and deter crime and anti-social behaviour; and a timeframe for implementation of the landscape scheme

If no details in accordance with this condition are approved within 6 months of the date of this decision, the occupation of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented. Upon implementation of the approved details specified in this condition, that scheme shall thereafter be retained in accordance with the approved details and approved long term maintenance, monitoring and remedial arrangements. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

11. Unless within 3 months of the date of this decision a Biodiversity Enhancement and Management Plan (BEMP) is submitted in writing to the local planning authority for approval, and unless the approved BEMP is implemented within 9 months of the local planning authority's approval, the occupation of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

The BEMP shall ensure that no less than a 10% biodiversity net gain (i.e., 10% above the site's pre-development habitat units and hedgerow units baseline) is achieved post-development, and shall include the followings details: description and evaluation of features to be managed and enhanced; details of the extent and location/area of proposed enhancement works on appropriate scale maps and plans; details corresponding with landscaping details to be submitted pursuant to condition 10; details of ecological trends and constraints on site that might influence management; aims and objectives of management; appropriate management actions for achieving the Aims and Objectives; an annual work programme (to cover an initial five-year period capable of being rolled forward over a period of 30 years); details of the management body or organisation responsible for implementation of the BEMP; and details of an ongoing monitoring programme and remedial measures. The BEMP will be reviewed and updated every five years and implemented for a minimum of 30 years. The BEMP shall include details of the legal and funding mechanisms by which the long-term implementation of the BEMP will be secured by the developer with the management body responsible for its delivery. The BEMP shall also set out (where the results from the monitoring show that the Aims and Objectives of the BEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully-functioning biodiversity objectives of the originally approved BEMP.

If no details in accordance with this condition are approved within 6 months of the date of this decision, the occupation of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented. Upon implementation of the approved details specified in this condition, that scheme shall thereafter be retained in accordance with the approved details. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

12. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless authorised in writing by the Local Planning Authority in response to evidence to be submitted to the Local Planning Authority demonstrating that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site.
13. Other than in relation to elevations not facing a highway, no cables, plumbing, foul pipes, vents, burglar alarm boxes, and/or CCTV cameras or related equipment and installations shall be located or fixed to any external elevation(s) of the development hereby approved. Should any such equipment or installations be considered necessary, details of these shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be completed in accordance with the details so approved.
14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order with or without modification) no development included within Classes A, B, C, D, E and F of Part 1 and Class A of Part 2 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.

END OF APPENDICES