



Appeal Decision

Site visit made on 23 September 2025

by **G Robbie BA(Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 November 2025

Appeal Ref: APP/Z4718/W/25/3358981

42 A Station Road, Fenay Bridge, Kirklees, Huddersfield HD8 0AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Gary Oldroyd against the decision of Kirklees Metropolitan Council.
- The application Ref is 2024/70/92497/W.
- The application sought planning permission for the erection of one dwelling and associated works without complying with a condition attached to planning permission Ref 2020/62/93329/W, dated 12 February 2021.
- The condition in dispute is No 2 which states that:
The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
- The reason given for the condition is:
- *For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP3, LP7, LP21, LP22, LP24, LP28, LP30, LP33, LP51, LP52 and LP53 of the Kirklees Local Plan and Chapters 4, 5, 9, 11, 12, 14 and 15 of the National Planning Policy Framework.*

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The purpose of this appeal is to vary the provisions of condition 2 of the planning permission granted in February 2021¹ (the 2021 permission) to facilitate internal and external changes to the previously approved dwelling. Condition 2 is essentially an 'approved plans' condition, albeit with separate reference to a schedule of plans attached as part of the original decision notice. The schedule set out the approved plans and drawings for the 2021 permission which, for completeness, are set out below:
 - Application Form (received 5th October 2020); Location Plan (received 5th October 2020); Proposed Elevations Ref 01 (received 9th October 2020); Proposed Floor Plans Ref 02 (received 9th October 2020); Proposed Site Layout Plan Ref 03 Rev A (received 1st February 2021); Cross Section of Side Ref 04 (received 9th October 2020); Cross Section – Across Site Ref 05 (received 9th October 2020) and Coal Mining Risk Assessment by Earth Environmental & Geotechnical dated May 2017 Ref A2040/G/1 (received 19th October 2020).
3. The appellant seeks to make revisions to the 2021 permission by changing the wording of condition 2 to reflect revised plans and elevations for the dwelling. The

¹ LPA Ref No: 2020/62/93329/W

NB - the planning application form refers to a short-form version of this reference number as LPA Ref No: 2020/93329

initial application form described the proposed changes as relating to '*the internal layout, subsequent internal changes and to include a garage*'. The description as set out on the Council's decision notice and subsequently referred to in the appellant's appeal submissions described the changes sought to '*increase the finished floor levels and overall ridge height of the dwelling, amend the internal layout and to include a garage*'.

4. A comparison of the approved plans and drawings from the 2021 permission with those submitted in relation to the current proposal and appeal showed that the dwelling's (upper) ground floor would be extended at the side in place of the previously proposed car parking space. That comparison also showed that the finished roof ridge level would be in the region of 0.7m higher than that of the 2021 permission scheme. The 2021 permission scheme plans that I have been provided with do not show comparable finished ground and first floor levels but it appears that the levels proposed in the current appeal scheme are similar to those set out in another, previously approved, scheme² (the 2024 variation) to vary the plans approved in the 2021 permission.

Background and Main Issues

5. The main issues are the effects of the proposed revisions upon:
 - The character and appearance of the appeal site and the surrounding area; and
 - The living conditions of occupiers of 42 Station Road, with particular regard to outlook and daylight and sunlight.

Reasons

Character and appearance

6. Station Road is steeply sloping and the properties and dwellings along it respond to the slope in differing ways. The appeal site is set a considerable way back from Station Road itself, accessed via a narrow neck of land from which access to No. 42 would be shared. The dwelling would therefore be some distance back from, and below, the Station Road roadside. As such, it would not be visible in longer views up or down the road, with views only visible from Station Road at its site frontage. Furthermore, given the distance that it would sit back from the roadside, it would not be a prominent or active part of the Station Road streetscene.
7. The Council are concerned that the additional width to the dwelling would remove a sense of space to the side of the dwelling and would result in a built form that would appear cramped within the street. I disagree.
8. Although the resulting dwelling when viewed from the front would be closer to the hedge that separates the appeal site from No. 42 than would be the case with the approved schemes, No. 42 sits so much lower within its site that it would barely be noticeable alongside the proposed dwelling when viewed from the site entrance. Although views through the site are currently possible, the dwelling previously approved by the 2020 permission and the 2024 variation would largely obscure these. Given the significantly lower ground levels of No. 42 and the houses behind on Fenay Drive, I am not persuaded that there would be real sense of the resulting

² LPA Ref No: 2024/70/90690/W

dwelling being cramped within the site. Furthermore, given its siting within the appeal plot, it would not have an active or prominent role in the streetscene. In this context, the altered roof levels and ridge height would not materially affect the proposed dwelling's context or its effect within the streetscene or surrounding area.

9. However, the proposed detached garage would sit more prominently within the site in a forward position closer to the site entrance. Whilst it would not be positioned directly adjacent to site's Station Road frontage, it would nevertheless be clearly visible from it. Unlike the dwelling, it would not be seen from distance. Rather, its attempt to respond to the slopes within the site would render it unduly bulky in context and wouldn't take advantage of those prevailing slopes to minimise the height and bulk of its flank and road-facing elevations.
10. Whilst I do not find that harm would arise from the dwelling in terms of its effect on the character and appearance of the surrounding area, the proposed detached garage would be an unduly and harmfully bulky and incongruous feature within the Station Road streetscene. Kirklees Local Plan (KLP) Policy LP24 states that good design should be at the core of all development proposals within the Kirklees district. Good design will, it states, be promoted by amongst other things, ensuring that the form, scale and layout of proposals respects and enhances the character of the surrounding area. As a consequence the garage would fail to secure the type of good design that KLP Policy LP24, informed by Principles 5 and 12 of the Council's *'Housebuilders Design Guide Supplementary Planning Document'*³ (SPD) which sets out what the Council considers to be good residential design including, in this instance, the positioning of buildings and the treatment of provision for car parking, and the Framework all seek to achieve.

Living conditions

11. The neighbouring property to the appeal site, No. 42, is set at lower ground levels than that of the appeal site, compounded by the made ground and raised patio levels at the rear of the proposed dwelling. The appeal site itself falls gently at first away from Station Road, and then sharply towards the rear of the site where the dwelling would be sited. The dwelling itself would be split level, essentially presenting a single storey frontage with a two-storey rear elevation.
12. The side gable elevation of the dwelling as approved by the 2021 permission and the 2024 variation would be inset from that of the lower ground floor and, as such, would also be inset from the hedge that separates the appeal site from No. 42. The amendments sought by this appeal proposal would not result in the dwelling being any closer to the neighbouring property at No.42 than the 2021 permission scheme. Nor would it be any closer to that property than the scheme granted planning permission by the 2024 variation.
13. However, the appeal scheme would replace the approved car parking area at the side of the dwelling – accessed on the 2021 permission and 2024 variation schemes from the higher ground levels at the front of the dwelling – with a sideways extension of the upper ground floor level portion of the building towards No. 42. Although the previously approved lower ground floor side elevation and low wall around the car parking area would still present a substantial vertical wall towards the boundary with No. 42, the additional height of a full gable elevation

³ June 2021

would project above the existing hedge. Whilst that hedge is both reasonably tall and dense, the combination of the full height gable and proximity to No.42 would be such that this element of the building would have a significant physical and visual presence and would loom over No. 42, harmfully so.

14. Furthermore, the plans indicate that the dwelling lies due south of the rear of No. 42, and slightly set-back from it. The combination of the siting and alignment of the dwellings relative to each other, differences in ground levels and the greater proximity of the bulkier gable elevation to No. 42 would be such that there would be a materially greater degree of overshadowing and loss of direct sunlight to the private areas at the rear of No. 42. That the proposed amendments would retain the narrow gap between the dwelling's footprint and No. 42 would not offset the greater height and proximity of the extended (upper) ground floor and its extended side extension gable elevation.
15. Taking these aspects together, I concur with the Council's assessment that the proposed amendments and revisions to the approved dwelling, and specifically the additional built element at (upper) ground floor level closest to No. 42, would cause material harm to the living conditions of occupiers of that property. That harm would be felt in terms of outlook and daylight and sunlight.
16. KLP Policy LP24 states that good design should be at the core of all development proposals within the Kirklees district. Good design will, it states, be promoted by amongst other things, providing a high standard of amenity for future and neighbouring occupiers. Principle 6 of the SPD states that residential layouts '*must maintain high standards of residential amenity, to avoid negative impacts on light [and] outlook.*'. For the reasons I have set out, the amendments proposed by the appeal scheme, with particular regard to the changes proposed to the (upper) ground floor of the dwelling, fail to achieve these aims and would not result in good design. The appeal scheme is therefore contrary to the aims and objectives of LKLP Policy LP24, and would not achieve the good design that Principle 6 of the SPD and the Framework seek to encourage.

Conclusion

17. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

G Robbie

INSPECTOR