



**STATEMENT OF CASE  
OF  
SOUTH STAFFORDSHIRE DISTRICT COUNCIL**

**S174 APPEAL**

**PLANNING INSPECTORATE REFERENCES**

**APP/C3430/C/23/3330315**

**APPEAL BY: MRS SAMINA SARWAR**

**APPEAL SITE: FEATHERSTONE FISH BAR  
20A, THE AVENUE, FEATHERSTONE  
WOLVERHAMPTON WV10 7AT**

**LOCAL AUTHORITY REFERENCE: 21/00022/UNDEV**

**CONTENTS**

## **SECTIONS**

1.	Introduction	Page 3
2.	Site Description and Reasons for Issuing the Notice	Page 3 - 5
2.	Policies	Page 5
3.	Planning History	Page 5
4.	Summary of Events	Page 5 - 6
5.	Grounds of Appeal Ground	Page 6
6.	Response to Grounds for Appeal Ground A	Pages 6 - 7
7.	Conditions	Page 7

## **APPENDICES**

Appendix 1	Enforcement Notice
Appendix 2	Land Registry Title Register and Title Plan reference SF341740
Appendix 3	Land Registry Title Register and Title Plan reference SF297023
Appendix 4	Site Visit Photographs dated 25 <sup>th</sup> January 2021
Appendix 5	Photographs of Timber Cladding Building 1

## **1. INTRODUCTION**

1.1 This appeal is brought against the decision by South Staffordshire District Council to serve an Enforcement Notice, (“the Notice”) in respect of land, (“the Land”) at the rear of 20, 20A and 22A, The Avenue, Featherstone, Wolverhampton WV10 7AT.

1.2 The alleged breach of planning control is:

*Without planning permission, unauthorised operational development consisting of the construction of two single storey extensions on the land, (“the Land”) outlined in red for identification purposes on the site plan attached to this report. The Unauthorised Extensions are identified on the aerial image at Appendix 1 to this report, marked building 1 (“Building 1”) and building 2 (“Building 2”) for identification purposes and for the avoidance of doubt.*

1.3 A copy of the Enforcement Notice has previously been sent to the Planning Inspectorate. (Appendix 1).

1.4 In respect of Building 1, the Land is under Land Registry reference SF341740 and the Title Register and Title Plan is produced at Appendix 2. In respect of Building 2, part of the building is under Land Registry reference SF341740, and part of the building is under Land Registry reference SF297023. The Title Register and Title Plan for Land Registry reference SF297023 is produced at Appendix 3.

## **2. SITE DESCRIPTION AND REASONS FOR ISSUING THE NOTICE**

2.1 It appears to the Council that the Unauthorised Extensions were substantially completed within the last four years and are therefore, not immune from enforcement action.

2.2 The Host Buildings, (which are 20 and 20A, The Avenue, Featherstone, Wolverhampton WV10 7AT), (“the Host Buildings”) are located in the village of Featherstone and are a number of commercial units located at the junction of The Avenue and South Crescent. Rear access to the Land is off South Crescent. To the rear of the Host Buildings there is a service yard upon which the Unauthorised Extensions have been constructed.

2.3 Paragraph 134 of the National Planning Policy Framework (NPPF), states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:

- a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or

- b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.
- 2.4 Core Policy 4, supported by the Councils Design Guide SPD 2018 and development Policy EQ11 that seeks to promote high quality design which respects and enhances local character and distinctiveness. Developments must be of the appropriate scale, design and materials for their location and conform to the design principles set out in the Policy which includes providing an attractive, functional, accessible, safe, healthy and secure environment.
- 2.5 The service yard provides access to four commercial business units consisting of a number of takeaway outlets and a convenience store, all of which have now been impeded by the Unauthorised Extensions. The land also provides an area for storage of bins and other associated paraphernalia of the various business uses which is necessary for their effective functioning.
- 2.6 Whilst it is acknowledged that the service yard in itself is not a particularly attractive area it provides space around the buildings and amenity to those users sharing the space. The Unauthorised Extensions have almost entirely filled the usable space to the rear 20, 20A and 22A, The Avenue, This creates an incongruous juxtaposition of built form with narrow and uncomfortable spaces around it which impedes access into the neighbouring buildings. The entire form of the extension creates a cramped oppressive environment.
- 2.7 Since it was first built, the stark breeze block construction of Building 1 has now been clad in wooden fence panels giving Building 1 the appearance of a shed attached to a building. The use of wooden fence panels over breeze block as cladding to the whole structure is not in keeping with any local vernacular. The fence panels have been cut and pushed together giving the appearance that the building is going to fall down. This is compounded by the use of two entirely different doors and a small window which look like they have come from 3 different buildings, and which have been finished to a very poor standard in terms of their fitting. The resultant appearance is contrived, of very poor quality and wholly inappropriate. Building 2 has retained its breeze block construction and although less visible located to the rear of Building 1 is no less stark and incongruous in its setting.
- 2.8 Taken together the Unauthorised Extensions are overlarge and overbearing and creates cramped and unusable space about the buildings. It appears no consideration has been given to the external appearance of the building. The scheme is clearly ill considered and jars with the form other buildings in the immediate vicinity. Although not highly visible from views external to the site it can be seen from the adjacent road and public footpath, as well as from inside the site, which is a shared spaced, the building appears wholly alien and sits uncomfortably within its setting.

2.9 As such the development in contrary to paragraph 134 of the NPPF and policy EQ11 of the South Staffordshire Core Strategy Development Plan Adopted 2012.

2.10 The Council consider that planning permission should not be given, because planning conditions could not overcome these objections to the development.

## 2.11 **National Planning Policy Framework**

12 – Achieving Well-Designed Places

## 2.12 **Adopted Core Strategy**

Core Policy 4: Promoting High Quality Design  
EQ11 – Wider Design Considerations

## 3. **PLANNING HISTORY**

There is no relevant planning history.

## 4. **SUMMARY OF EVENTS**

4.1 In January 2021 the Council received complaints relating to the construction of a single storey extension taking place on the Land to the rear of the host building.

4.2 On 25th January 2021 Council officers conducted a site visit and found a large single storey extension under construction to the rear of the host dwelling together with a smaller extension, both identified as Building 1 and Building 2 at Appendix 1 attached to the Notice. Both extensions were constructed from breeze blocks and appeared to be of a poor design. Photographs are produced at Appendix 4.

4.3 Further investigation revealed that both buildings had been constructed on Land forming a service yard to the commercial units, with examination of aerial imagery showing they had been constructed after April 2020.

4.4 The leasehold owner of the host dwelling, (the Appellant), was contacted on a number of occasions but after numerous attempts at negotiating a resolution, failed to regularise the breach in planning control either by removing the buildings or submitting a retrospective planning application.

4.5 Further officer visits carried out in 2022 revealed that the stark breeze block construction of Building 1 had been clad in wooden fence panels giving Building 1 the appearance of a shed attached to a building. Photographs are produced at Appendix 5.

4.6 The leasehold owner has acknowledged that neither Building 1 nor Building 2 have actually been built on land within his ownership or under his lease and concerns have been expressed from the owners of the surrounding businesses in relation to the poor-quality design of the extensions and the loss of the service yard.

- 4.7 At the date the Notice was issued, the unauthorised extensions consisting of Building 1 and Building 2 remain in situ.

**5. GROUND OF APPEAL**

**Ground (a)** - That planning permission should be granted for what is alleged in the notice.

**6. LPA RESPONSE TO GROUNDS FOR APPEAL – GROUND A**

- 6.1 The LPA intends to rely upon the policy considerations detailed in the Notice in respect of this Ground A appeal.
- 6.2 The Appellants statement at Part 2 states that the rear yard, (where Buildings 1 and 2 are located), belongs to the applicant site. It is not understood exactly what the Appellant means by this, as detailed at paragraph 1.4 of this statement, the Land where the unauthorised buildings are located straddles two separate Land Registry titles both of which are under different ownership. None of the freehold land is under the ownership of the Appellant, nor is it leased to him.
- 6.3 Retail units consisting of 20, 20A and 22A, The Avenue have access to the rear yard and use this for deliveries, however their access is now impeded as a result of the unauthorised buildings. Two complaints have been received after the notice was issued; one relating to the adjacent property with the complainant stating he has had to buy a new fan for his generator, (seen on the images on pages 6 & 7 of the LPA,'s Appendix 4), as its proximity to the extensions caused it to overheat. Another from the owner of one of the retail units who states he can no longer use the rear yard for his deliveries due to the unauthorised building. He states he is now having to take deliveries at the front of his shop unit on The Avenue which he complains is unacceptable.
- 6.4 The Appellant states in Part 3 of his statement that the site does not permit any right of way of access to any third party. Given the complaint that has been received in relation to the former of the use of the rear yard, this cannot in any way be correct.
- 6.5 The Appellant proposes to remove the timber fence panels on Building 1 and replace these with white and cement sand render. This will undoubtedly improve the buildings appearance, particularly if there is an intention to have matching doors, but it fails to address the harm created by the poorly conceived layout which remains cramped, reducing access space for persons entering the rear of the shop units and reducing parking and delivery space for all but smaller delivery vehicles with no room to turn around and exit except if reverse. The Appellant has not submitted any proposals to mitigate this loss of space and given the incongruous placement of the unauthorised buildings, it is questionable if anything can be done except to secure their removal.
- 6.6 Finally, the Appellant concludes by stating that planning permission would generate employment which is much needed and would serve the locals. However, no further information has been submitted to explain how two

extensions to a small existing retail unit would generate employment or how it would benefit the locals. This statement is questionable at best.

- 6.7 In conclusion, the development remains contrary to paragraph 134 of the NPPF and policy EQ11 of the South Staffordshire Core Strategy Development Plan Adopted 2012 and the Inspector is respectfully invited to dismiss the Ground A appeal.

## 7. **CONDITIONS**

1. Notwithstanding any details shown within the submitted, this permission expressly excludes the use of the timber cladding external materials. Within 2 months of the date of this decision details of alternative materials shall have been submitted to and agreed, in writing, by the Local Planning Authority. The approved materials shall thereafter be installed within 3 months of written approval.

*Reason: The materials proposed in the application are not considered to be suitable for use on this site and to ensure that appropriate materials are chosen which will secure a satisfactory appearance, in the interests of visual amenity.*

2. Prior to the first occupation of the development hereby permitted, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have been previously submitted to and agreed, in writing, by the Local Planning Authority. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

*Reason: The application contains insufficient information to ensure that adequate facilities are provided for refuse and recycling storage and collection.*