

Noted DW 27.4.09

Alex

**Sheffield City Council Memorandum**

Chief Executive's

From: Assistant Chief Executive  
Legal and Governance

To: Development Control  
Development Services  
Howden House

Date: 24 April, 2009

Tel: 34058 – Tracy Bramhall

Fax: 35003

Ref: LOA/TB/PA456

~~REDACTED~~

**Gloria Leng**

Ref: 08/02296/OUT



**TOWN AND COUNTRY PLANNING ACT 1990  
APPEAL BY: MISS FIONA MILTON  
SITE AT: ROYD COTTAGE, CARR ROAD, DEEPCAR, SHEFFIELD 36**

I refer to the above-mentioned appeal and enclose for your information a copy of the Planning Inspectorate's decision letter.

*hll* *602-296*



# The Planning Inspectorate

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Temple Quay  
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LEGAL AND  
GOVERNANCE

24 APR 2009

Ms T Bramhall  
Sheffield City Council  
Legal & Governance  
Town Hall  
Sheffield  
S1 2HH

Your Ref:

08/02296/OUT

Our Ref:

APP/J4423/A/09/2093075/WF

Date:

23 April 2009

Dear Mrs Bramhall

## Town and Country Planning Act 1990

### Appeal by Miss Fiona Milton

Site at Royd Cottage, Carr Road, Deepcar, Sheffield, S36 2NR

I enclose a copy of our Inspector's decision on the above appeal.

Leaflets explaining the right of appeal to the High Court against the decision, our complaints procedures and how the documents can be inspected are on our website – [www.planning-inspectorate.gov.uk/pins/agency\\_info/complaints/complaints\\_dealing.htm](http://www.planning-inspectorate.gov.uk/pins/agency_info/complaints/complaints_dealing.htm) - and are also enclosed if you have chosen to communicate by post. If you would prefer hard copies of these leaflets, please contact our Customer Services team on 0117 3726372.

If you have any queries relating to the decision please send them to:

Quality Assurance Unit  
The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square, Temple Quay  
Bristol BS1 6PN

Phone No. 0117 372 8252

Fax No. 0117 372 8139

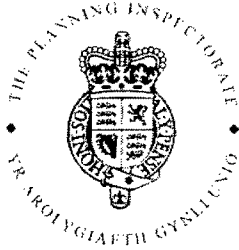
E-mail: [complaints@pins.gsi.gov.uk](mailto:complaints@pins.gsi.gov.uk)

Yours sincerely

James Buntin



You can now use the Internet to submit documents, to see information and to check the progress of this case through the Planning Portal. The address of our search page is - <http://www.pcs.planningportal.gov.uk/pcsportal/casesearch.asp>  
You can access this case by putting the above reference number into the 'Case Ref' field of the 'Search' page and clicking on the search button



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# Appeal Decision

Site visit made on 24 March 2009

**by Richard McCoy BSc, MSc, DipTP,  
MRTPI, IHBC**

**an Inspector appointed by the Secretary of State  
for Communities and Local Government**

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email:enquiries@pins.gsi.gov.uk

**Decision date:  
23 April 2009**

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**Appeal Ref: APP/J4423/A/09/2093075**

**Royd Cottage, Carr Road, Deepcar, Sheffield, South Yorkshire, S36 2NR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Julian Denham & Miss Fiona Milton against the decision of Sheffield City Council.
  - The application Ref 08/02296/OUT, dated 20 April 2008, was refused by notice dated 25 June 2008.
  - The development proposed is the erection of a 1.5 storey, 3 bed dwelling within the garden area of the existing house.
- 

## Decision

1. I dismiss the appeal.

## Procedural matters

2. This appeal was scheduled for an accompanied site visit. However, after the local authority representative failed to attend I completed the visit unaccompanied. Both parties have been contacted and neither has expressed any objection to the appeal proceeding on this basis.
3. This application was submitted in outline with all matters reserved. I have dealt with the appeal on that basis and have treated the layout and access details as illustrative.

## Main issues

4. I consider the main issues to be the effect of the proposal on the character and appearance of the area and on the living conditions of the occupants of Royd Cottage from any loss of outlook and overshadowing.

## Reasons

5. The appeal site is the side garden of Royd Cottage and is located in a predominantly residential area on the edge of the settlement within an area designated in the Sheffield Unitary Development Plan (UDP), adopted March 1998 as an Open Space Area.
  6. I consider that the area has a strong green character that contributes to the pleasant open appearance of the locality. The proposal would have a detrimental impact on the green open area as it would result in the subdivision of the curtilage to provide an additional dwelling thereby reducing the amount of open space.
-

7. The openness of the large garden to the west side of Royd Cottage affords views across the appeal site to the areas of open land which lie beyond. It brings the feeling of space into Carr Road. The proposal would extend the built form into this area and would lead to the erosion of its green character. It would also increase the sense of enclosure along Carr Road by extending the built up frontage. Accordingly, the proposal would be harmful to the character and appearance of the area, contrary to UDP Policies GE10 and LR5.
8. With regard to the impact of the proposal on the living conditions of the occupants of Royd Cottage, I consider were the proposal to be acceptable in principle, that any conflict could be overcome at the reserved matters stage. Nevertheless, this consideration would not overcome the harm the proposal would cause to the character and appearance of the area.
9. In reaching my decision I have noted the argument that Royd Cottage was granted permission in the designated Open Space Area. However, this would not be sufficient justification for permitting a further development that I consider would be harmful to the character and appearance of the area.
10. I have also taken into account all the other matters raised in the representations, including the letter in support of the proposal and the arguments that any harm to ecology would be negligible, and as a garden the appeal site is previously developed land. However, I do not find that they alter or outweigh the conclusions I have reached on the merits of the case. For the reasons given above I conclude that the appeal should be dismissed.

*Richard McCoy*

INSPECTOR



# The Planning Inspectorate

v7.2

An Executive Agency in the Department for Communities  
& Local Government and the Welsh Assembly Government

## Our Complaints Procedures

### Introduction

#### We can:

- review your complaint and identify any areas where our service has not met the high standards we set ourselves.
- correct some minor slips and errors provided we are notified within the relevant High Court challenge period (see below).

#### We cannot:

- change the Inspector's decision.
- re-open the appeal once the decision has been issued.
- resolve any issues you may have with the local planning authority about the planning system or the implementation of a planning permission; we can only deal with planning appeal decisions.

The **High Court** is the only authority that can ask for the Inspector's decision to be reconsidered. Applications to the High Court must be made within 6 weeks from the date of the decision letter for planning appeals, and in most instances 28 days for enforcement appeals.

### Complaints

We try hard to ensure that everyone who uses the appeal system is satisfied with the service they receive from us. Planning appeals often raise strong feelings and it is inevitable that there will be at least one party who will be disappointed with the outcome of an appeal. This often leads to a complaint, either about the decision itself or the way in which the appeal was handled.

Sometimes complaints arise due to misunderstandings about how the appeal system works. When this happens we will try to explain things as clearly as possible. Sometimes the appellant, the council or a local resident may have difficulty accepting a decision simply because they disagree with it. Although we cannot re-open an appeal to re-consider its merits or add to what the Inspector has said, we will answer any queries about the decision as fully as we can.

Sometimes a complaint is not one we can deal with (for example, complaints about how the council dealt with another similar application), in which case we will explain why and suggest who may be able to deal with the complaint instead.

### How we investigate complaints

Inspectors have no further direct involvement in the case once their decision is issued and it is the job of our Quality Assurance Unit to investigate complaints about decisions or an Inspector's conduct. We appreciate that many of our customers will not be experts on the planning system and for some, it will be their one and only experience of it. We also realise that your opinions are important and may be strongly-held. The Quality Assurance Unit works independently of all of our casework teams. It ensures that all complaints are investigated thoroughly and impartially, and that we reply in clear,

straight forward language, avoiding jargon and complicated legal terms.

We aim to give a full reply within three weeks wherever possible. To assist our investigations we may need to ask the Inspector or other staff for comments. This helps us to gain as full a picture as possible so that we are better able to decide whether an error has been made. If this is likely to delay our full reply we will quickly let you know.

### What we will do if we have made a mistake

Although we aim to give the best service possible, there will unfortunately be times when things go wrong. If a mistake has been made we will write to you explaining what has happened and offer our apologies. The Inspector concerned will be told that the complaint has been upheld.

We also look to see if lessons can be learned from the mistake, such as whether our procedures can be improved upon. Training may also be given so that similar errors can be avoided in future.

### Who checks our work?

The Government has said that 99% of our decisions should be free from error. An independent body called the Advisory Panel on Standards (APOS) monitors this and regularly examines the way we deal with complaints. We must satisfy it that our procedures are fair, thorough and prompt.



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## Taking it further

If you are not satisfied with the way we have dealt with your complaint you can contact the Parliamentary Commissioner for Administration (often referred to as The Ombudsman), who can investigate complaints of maladministration against Government Departments or their Executive Agencies. If you decide to go to the Ombudsman you must do so through an MP. Again, the Ombudsman cannot change the decision.

## Frequently asked questions

*"Can the decision be reviewed if a mistake has happened?"* – Although we can rectify minor slips, we cannot reconsider the evidence the Inspector took into account or the reasoning in the decision or change the decision reached. This can only be done following a successful High Court challenge. The enclosed High Court leaflet explains more about this.

*"So what is the point of complaining?"* – We are keen to learn from our mistakes and try to make sure they do not happen again. Complaints are therefore one way of helping us improve the appeals system.

*"Why did an appeal succeed when local residents were all against it?"* – Local views are important but they are likely to be more persuasive if based on planning reasons, rather than a basic like or dislike of the proposal. Inspectors have to make up their own minds on all of the evidence whether these views justify refusing planning permission.

*"What do the terms 'Allowed' and 'Dismissed' mean on the decision?"* – 'Allowed' means that Planning Permission has been granted, 'Dismissed' means that it has not. In enforcement appeals (s.174), 'Upheld' means that the Inspector has rejected the grounds of appeal and the enforcement notice must be complied with; 'Quashed' means that the Inspector has agreed with the grounds of appeal and cancelled the enforcement notice.

*"How can Inspectors know about local feeling or issues if they don't live in the area?"* – Using Inspectors who do not live locally ensures that they have no personal interest in any local issues or any ties with the council or its policies. However, Inspectors will be aware of local views from the representations people have made on the appeal.

*"I wrote to you with my views, why didn't the Inspector mention this?"* – Inspectors must give reasons for their decision and take into account all views submitted but it is not necessary to list every bit of evidence.

*"Why did my appeal fail when similar appeals nearby succeeded?"* – Although two cases may be similar, there will always be some aspect of a proposal which is unique. Each case must be decided on its own particular merits.

*"I've just lost my appeal, is there anything else I can do to get my permission?"* – Perhaps you could change some aspect of your proposal to increase its acceptability. For example, if the Inspector thought your extension would look out of place, could it be re-designed to be more in keeping with its surroundings? If so, you can submit a revised application to the council. Talking to its planning officer about this might help you explore your options.

*"What can I do if someone is ignoring a planning condition?"* – We cannot intervene as it is the council's responsibility to ensure conditions are complied with. You could contact the council as it has discretionary powers to take action if a condition is being ignored.

## Further information

Each year we publish our Annual Report and Accounts, setting out details of our performance against the targets set for us by Ministers and how we have spent the funds the Government gives us for our work. We publish full statistics of the number of cases dealt with during the preceding year on our website, together with other useful information (see 'Contacting us'). You can also obtain booklets which give details about the appeal process by telephoning our enquiries number.

You can find the latest Advisory Panel on Standards report either by visiting our website or at [www.apos.gov.uk](http://www.apos.gov.uk)

## Contacting us

### Complaints & Queries in England Quality Assurance Unit

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square, Temple Quay  
Bristol BS1 6PN

Phone: 0117 372 8252

E-mail: [complaints@pims.gsi.gov.uk](mailto:complaints@pims.gsi.gov.uk)

Website: [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk)

### Enquiries

Phone: 0117 372 6372

E-mail: [enquiries@pims.gsi.gov.uk](mailto:enquiries@pims.gsi.gov.uk)

### Complaints & Queries in Wales

The Planning Inspectorate  
Room 1-004  
Cathays Park  
Cardiff CF1 3NQ

Phone: 0292 082 3866

E-mail: [Wales@pims.gsi.gov.uk](mailto:Wales@pims.gsi.gov.uk)

### The Parliamentary & Health Service Ombudsman

Millbank Tower, Millbank  
London SW1P 4QP

Helpline: 0845 0154033

Website: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

E-mail: [phso.enquiries@ombudsman.org.uk](mailto:phso.enquiries@ombudsman.org.uk)

Please see Wales leaflet for information on how to contact the Wales Public Services Ombudsman.



# The Planning Inspectorate

v5.3

An Executive Agency in the Department for Communities  
& Local Government and the National Assembly for Wales

## Challenging the Decision in the High Court

### *Challenging the decision*

Appeal decisions are legal documents and, with the exception of very minor slips, we cannot amend or change them once they have been issued. Therefore a decision is final and cannot be reconsidered unless it is successfully challenged in the High Court. If a challenge is successful, we will consider the decision afresh.

### *Grounds for challenging the decision*

A decision cannot be challenged merely because someone disagrees with the Inspector's judgement. For a challenge to be successful you would have to show that the Inspector misinterpreted the law or, for instance, that the inquiry, hearing, site visit or other appeal procedures were not carried out properly, leading to, say, unfair treatment. If a mistake has been made and the Court considers it might have affected the outcome of the appeal it will return the case to us for re-consideration.

### *Different appeal types*

High Court challenges proceed under different legislation depending on the type of appeal and the period allowed for making a challenge varies accordingly. Some important differences are explained below:

### *Challenges to planning appeal decisions*

These are normally applications under Section 288 of the Town & Country Planning Act 1990 to quash decisions into appeals for planning permission (including enforcement appeals allowed under ground (a), deemed application decisions or lawful development certificate appeal decisions). For listed building or conservation area consent appeal decisions, challenges are made under Section 63 of the Planning (Listed Buildings and Conservation Areas) Act 1990. **Challenges must be received by the Administrative Court within 42 days (6 weeks) of the date of the decision - this period cannot be extended.**

### *Challenges to enforcement appeal decisions*

Enforcement appeal decisions under all grounds [see our booklet 'Making Your Enforcement Appeal'] can be challenged under Section 289 of the Town & Country Planning Act 1990. Listed building or conservation area enforcement appeal decisions can be challenged under Section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990. To challenge an enforcement decision under Section 289 or Section 65 you must first get the permission of the Court. However, if the Court does not consider that there is an arguable case, it can refuse permission. **Applications for permission to make a challenge must be received by the Administrative Court within 28 days of the date of the decision, unless the Court extends this period.**

**Important Note** - This leaflet is intended for guidance only. Because High Court challenges can involve complicated legal proceedings, you may wish to consider taking legal advice from a qualified person such as a solicitor if you intend to proceed or are unsure about any of the guidance in this leaflet. Further information is available from the Administrative Court (see overleaf).



## Frequently asked questions

"Who can make a challenge?" – In planning cases, anyone aggrieved by the decision may do so. This can include third parties as well as appellants and councils. In enforcement cases, a challenge can only be made by the appellant, the council or other people with a legal interest in the land – other aggrieved people must apply promptly for judicial review by the Courts (the Administrative Court can tell you more about how to do this – see Further Information).

"How much is it likely to cost me?" – An administrative charge is made by the Court for processing your challenge (the Administrative Court should be able to give you advice on current fees – see 'Further information'). The legal costs involved in preparing and presenting your case in Court can be considerable though, and if the challenge fails you will usually have to pay our costs as well as your own. However, if the challenge is successful we will normally meet your reasonable legal costs.

"How long will it take?" – This can vary considerably. Although many challenges are decided within six months, some can take longer.

"Do I need to get legal advice?" – You do not have to be legally represented in Court but it is normal to do so, as you may have to deal with complex points of law made by our own legal representative.

"Will a successful challenge reverse the decision?" – Not necessarily. The Court can only require us to reconsider the case and an Inspector may come to the same decision again but for different or expanded reasons.

"What can I do if my challenge fails?" – The decision is final. Although it may be possible to take the case to the Court of Appeal, a compelling argument would have to be put to the Court for the judge to grant permission for you to do this.

## Further information about challenging the decision

Further advice about making a High Court challenge can be obtained from the Administrative Court at the Royal Courts of Justice, Queen's Bench Division, Strand, London WC2 2LL, telephone 0207 9476655, Website: [www.courtservice.gov.uk](http://www.courtservice.gov.uk)

## Inspection of appeal documents

We normally keep appeal files for one year after the decision is issued, after which they are destroyed. You can inspect appeal documents at our Bristol offices by contacting us on our General Enquiries number to make an appointment (see 'Contacting us'). We will then ensure that the file is obtained from our storage facility and is ready for you to view. Alternatively, if visiting Bristol would involve a long or difficult journey it may be more convenient to arrange to view your local planning authority's copy of the file, which should be similar to our own.

## Administrative Justice & Tribunals Council

If you have any comments on appeal procedures you can contact the Administrative Justice & Tribunals Council, 81 Chancery Lane, London WC2A 1BQ. Telephone 0207 855 5200; website: <http://www.ajtc.gov.uk/>. However, it cannot become involved with the merits of individual appeals or change an appeal decision.

## Contacting us

High Court Section  
The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

Phone: 0117 372 8962

## Website

[www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk)

## General Enquiries

Phone: 0117 372 6372

E-mail: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

## Complaints

Phone: 0117 372 8252

E-mail: [complaints@pins.gsi.gov.uk](mailto:complaints@pins.gsi.gov.uk)

## Cardiff Office

The Planning Inspectorate  
Room 1 004  
Cathays Park  
Cardiff CF1 3NQ

Phone: 0292 082 3866

E-mail: [Wales@pins.gsi.gov.uk](mailto:Wales@pins.gsi.gov.uk)

## The Parliamentary & Health Service Ombudsman

Millbank Tower, Millbank  
London SW1P 4QP

Helpline: 0845 0154033

Website: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

Email: [phso.enquiries@ombudsman.org.uk](mailto:phso.enquiries@ombudsman.org.uk)



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# The Planning Inspectorate

An Executive Agency in the Department for Communities  
& Local Government and the Welsh Assembly Government

## 21 Century Appeals Service Proportionate, Customer Focused and Efficient

### Background

The Planning Act 2008 received Royal Assent on 26 November 2008. One of the main aims of the Act is to improve the speed of the appeals process. The focus is on the principles of proportionality, customer focus and efficiency.

Guidance is being developed and will soon be available on our website. Look out for this at the links overleaf.

The following is a brief overview of the key changes coming into place on 6th April 2009.

### • Nature and Content of Appeal Documents

Appellants and local planning authorities (LPA) must ensure that their reasons for refusal and grounds of appeal (GoA) are clear, precise, comprehensive, and that the GoA relate to the scheme as refused at application stage, without substantial changes which could lead to any party being prejudiced. Applicants should not normally proceed to appeal unless all efforts to negotiate a solution with the LPA, including through amending their proposals, have been exhausted. They should be confident at the time of appeal that they have a clear case and do not need to commission further evidence.

### • Determining the Appeal Method

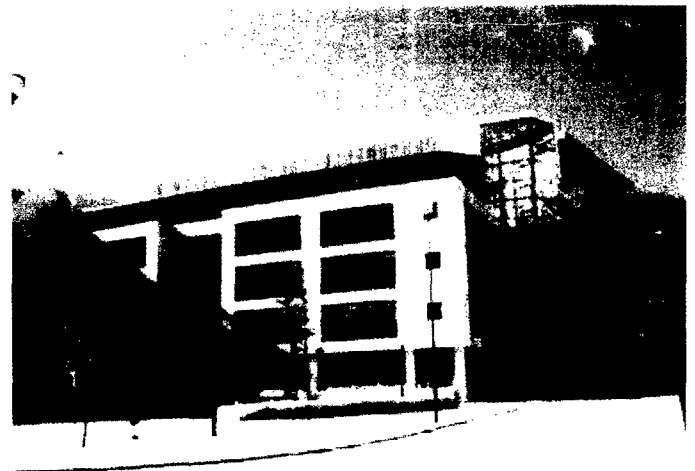
The Planning Inspectorate (on behalf of the Secretary of State for Communities and Local Government) will be able to decide whether planning or enforcement appeals under the 1990 Act should proceed by written representations, hearing or inquiry. The appellant and LPA will have the opportunity to put forward their views on their preferred procedure. Criteria for determining the procedure (indicative) can be found on our website.

### • Householder Appeal Service

There will be a streamlined appeal process for householder planning appeals to be determined within 8 weeks. The appeal period for householder appeals will be 12 weeks.

### • Meeting the timetables

Once an appeal is accepted and validated by the Planning Inspectorate, it is crucial that all parties adhere to the statutory deadlines at each stage. Parties should also maintain a regular and continuing dialogue to ensure that the issues can be clearly established between them, with no last minute surprises arising.



### • Streamlined Appeal Procedures (Statement of Common Ground)

There is new guidance being issued to streamline the appeal process. An example of the new streamlined process is main parties will no longer be able to submit final comments for hearing or inquiries at the 9 week stage, and the statement of common ground will be required 6 weeks after the appeal has started.

### • Correction of Errors

The appellant or landowner's written consent will no longer be required to correct an error in a Planning Inspector's decision under the "Slip Rule" (i.e. a minor error that does not materially affect the decision).

### • Making Costs Applications

Parties to an appeal will be able to apply for Costs in written representation cases. A revised Circular on Costs is in preparation.

# Key Websites

Key websites for information regarding the 21st Century Appeal Service.

## **21st Century Appeals Service**

For a full explanation of all of the changes described overleaf and the latest information on making an appeal using the 21st Century appeals service visit the '21st Century Appeals Service' web page on the Planning Inspectorate web site:  
[http://www.planning-inspectorate.gov.uk/pins/21st\\_century/index.html](http://www.planning-inspectorate.gov.uk/pins/21st_century/index.html)

## **Householder Appeal Service**

Information about the new Householder Appeals Service is on the Planning Inspectorate's website:  
[http://www.planning-inspectorate.gov.uk/pins/appeals/householder\\_appeals.htm](http://www.planning-inspectorate.gov.uk/pins/appeals/householder_appeals.htm)

## **The Planning Act 2008**

To view the actual Planning Act 2008 visit the Office of Public Sector Information (OPSI) website:  
[http://www.opsi.gov.uk/acts/acts2008/ukpga\\_20080029\\_en\\_1](http://www.opsi.gov.uk/acts/acts2008/ukpga_20080029_en_1)

## **Making an Appeal**

For general information on making an appeal, to follow the progress of an appeal and to submit an appeal online, visit the Planning Portal website:  
<http://www.planningportal.gov.uk/pcs>

