



Appeal Decisions

Site visit made on 20 August 2019

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 29 August 2019

Appeal Refs: APP/N4720/C/19/3225764 (Appeal A) & 3225765 (Appeal B)

301 Leeds Road, Bramhope, Leeds LS16 9JX

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mrs Yvonne Bridge (Appeal A) & Mr Nigel Bridge (Appeal B) against an enforcement notice issued by Leeds City Council.
 - The enforcement notice was issued on 14 March 2019.
 - The breach of planning control alleged in the notice is: Without planning permission the erection of a wooden fence over an existing stone wall to form boundary treatment exceeding one metre in height adjacent to a highway used by vehicular traffic.
 - The requirements of the notice are: Remove the fence, posts and all fixtures and fittings from above the existing stone wall.
 - The period for compliance with the requirements is 28 days.
 - The appeals are proceeding on the grounds set out in section 174(2) (b) of the Town and Country Planning Act 1990 as amended.
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Decisions

1. It is directed that the enforcement notice be amended by:
 - 1) Deleting the word 'over' from the allegation and substituting the word 'behind'; and
 - 2) Deleting the words 'from above the existing stone wall' from paragraph 5 of the notice; and
 - 3) Substituting the words 'from their position behind and parallel to the front stone wall.'
2. Subject to these amendments, the appeals are dismissed and the enforcement notice is upheld.

Ground B

3. The grounds of appeal are (b) that the matter alleged in the enforcement notice has not occurred.
4. The enforcement notice relates to a fence that has been erected just behind the stone boundary wall at the front of the appeal property, facing the Leeds Road. I note that the appellants applied for planning permission¹ for the fence, which was refused, and subsequently dismissed at appeal².

¹ 18/06631/FU

² APP/N4720/D/19/3225791

5. It is the appellants' case that the enforcement notice is incorrect as the fence is not located on top of the stone wall. Instead, it is located on level ground just behind the wall, which I was able to see on my site visit.
6. The enforcement notice directs that the fence shall be removed 'from above the existing stone wall.' In their statement of case, the Council accept that the fence is not located on top of the wall. They explain that the fence appears to be over the wall, hence their choice of wording in the allegation, which also tallies with the wording used in the appeal decision referred to above.
7. Taking all the evidence into account, there can be no doubt that the fence in question has been built, and that it sits on land directly behind the stone wall. I therefore conclude that the alleged breach of planning control comprising the erection of a fence has occurred, and so the appeal on ground (b) fails.
8. However, to my mind, the wording in the enforcement notice is open to interpretation in terms of the exact location of the fence, and therefore is not sufficiently precise. Therefore the wording of the notice will be amended to remove any ambiguity as to the location of the fence.

Elaine Gray

INSPECTOR