



Appeal Decisions

Site visit made on 15 October 2019

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 October 2019

Appeal A: APP/H0724/C/18/3218805

Appeal B: APP/H0724/C/18/3218806

1 Arncliffe Gardens, Hartlepool TS26 9JG

- 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 Stacey Pollard (Appeal A) and Mr Michael Pollard (Appeal B) against an enforcement notice issued by Hartlepool Borough Council.
 - The enforcement notice was issued on 14 November 2018.
 - The breach of planning control as alleged in the notice is Without planning permission, the erection of a close boarded timber fence and timber gate at the front of the property.
 - The requirements of the notice are (i) Reduce the height of the timber fence and gate, shown in the position on the attached plan between points A, B and C, so that they do not exceed 1m in height above adjacent ground level as measured from the adjacent public footway.
 - The period for compliance with the requirements is within 2 months from the date this notice takes effect.
 - The appeals are proceeding on the ground set out in section 174(2) (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeals on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Formal Decision

1. The appeals are dismissed and the enforcement notice is upheld.

The appeals on ground (f)

2. Rather than seeking the removal of the fence and gate, the objective of the notice is to reduce the height of both, so that they do not exceed 1 metre in height. It follows that the purpose of the notice is to remedy injury to amenity caused by the breach. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to remedy injury to amenity.
3. The appellants have made a number of points in support of their claim that the development should be regarded as acceptable. They consider that the fence and gate fits in well with the surrounding area; does not obstruct the visibility of an adjacent garage owner and represents an improvement to visibility when compared with tall trees that were previously on the appellants' property. They also say that the development helps to increase the privacy of the property.

4. However the appellants are not progressing a ground (a) appeal, that is to say that planning permission should be granted for the development. In the absence of an appeal on ground (a), I am unable to consider the merits of the development in general terms, and therefore the various arguments that have been put forward above.
5. The appellants suggest that painting the fence and gate would be a more appropriate solution than reducing their height. However as set out above, in the absence of a ground (a) appeal I am unable to consider the relative merits of potential alternative solutions. In any event, requiring the fence and gate to be painted would not be a sufficiently precise requirement in terms of the detail of colouring and the need to secure ongoing maintenance.
6. To require the height of the fence and gate to be reduced does not, therefore, exceed what is necessary to remedy the injury to amenity in this case, and the appeals on this ground must fail.

Conclusion

7. For the reasons given above I consider that the appeals should not succeed.

Roy Merrett

INSPECTOR