
Appeal Decision

Site visit made on 10 December 2019

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 02 January 2020

Appeal Ref: APP/F4410/C/19/3228220

37 Bruce Crescent, Intake, Doncaster DN2 5JL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Naseem Akhtar against an enforcement notice issued by Doncaster Metropolitan Borough Council.
 - The enforcement notice was issued on 29 March 2019.
 - The breach of planning control as alleged in the notice is *Without planning permission the erection of a boundary wall (including pillars, gate and railings) measuring 2.24m at its highest point on the Land, in the approximate position marked between points A and B on the attached Plan 2.*
 - The requirements of the notice are to (a) remove the boundary wall (including pillars, gate and railings) marked between points A and B on the attached Plan 2 from the Land or (b) reduce the height of the boundary wall (including pillars, gates and railings) marked between points A and B on the attached Plan 2 to a height of not greater than one metre.
 - The period for compliance with the requirements is one month.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Main Issue

2. The appeal on ground (f) is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.

Reasons

3. The notice is directed at a boundary wall surrounding the corner plot at 37 Bruce Crescent, which lies at the junction with Armthorpe Road. The land falls away from Armthorpe Road and the dwelling sits at a distinctly lower level, with the wall providing a retaining function against the road above. Recent works have been carried out to erect the wall, which from the Armthorpe Road side measures around 1.75m high. It is then stepped down Bruce Crescent, with varying heights but in some places exceeding 2m.
4. The Council's reasons for issuing the notice relate to its impact on highway safety and on the character and appearance of the locality. As there is no appeal on ground (a) or deemed application for planning permission, it appears

that these concerns are not in dispute. To remedy the breach, the Council's notice requires the removal of the wall or, in an apparent acknowledgement of permitted development rights, to reduce its height to 1m.

5. The appellant explains that the wall was built in order to improve ambient surroundings, and to provide greater security. No alternative requirements to those found in the notice have been proposed: the appellant seeks the retrospective authorisation of the wall as built.
6. I am unable to consider whether to grant planning permission for the wall as built, because there is no appeal on ground (a) or deemed planning application. No lesser steps than those set out in the notice have been proposed for my consideration. No lesser step than requirement (a) would remedy the breach that has occurred or, in the alternative requirement (b), achieve the fallback of what might have been erected as permitted development. Accordingly the appeal on ground (f) fails, and thus the appeal is dismissed and the enforcement notice is upheld.

Laura Renaudon

INSPECTOR