
Appeal Decisions

Site visit made on 14 January 2020

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 January 2020

Appeal A Ref: APP/U5360/C/19/3231946

Appeal B Ref: APP/U5360/C/19/3231947

5 Clarke Path, London N16 6QE

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- Appeal A is made by Mr Orane Lewis and appeal B is made by Mrs Kedesha Lewis against an enforcement notice issued by the Council of the London Borough of Hackney.
- The enforcement notice was issued on 30 May 2019.
- The breach of planning control as alleged in the notice is without planning permission, operational development comprising of the erection of a wooden boundary fence to the front of the property.
- The requirements of the notice are:
 - (1) Reduce the wooden fence to 1 metre in height or less.
 - (2) Make good all damage to the property resulting from compliance requirement 1 of the notice.
 - (3) Remove all waste, materials, equipment and debris from the property resulting from compliance with the requirements of this notice.
- The period for compliance with the requirements is one month.
- The appeals are proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.

Summary Decision: The appeals are dismissed and the enforcement notice is upheld with a correction in the terms set out below in the Formal Decision.

Preliminary Matter

1. Requirement (2) at section 5 of the notice is missing the word “with”. In order to ensure clarity, it should be corrected.

The Appeals on Ground (f)

2. An appeal on this ground 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 which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
3. In this case, the requirements seek to reduce the height of the fence to 1m. This appears to seek the fence be reduced to the height prior to replacing the fence, or to the height granted planning permission under the Town and Country Planning (General Permitted Development) (England) Order 2015. For these reasons, I consider that the purpose of the notice requirements is to remedy the breach of planning control. This reflects what is set out in the Council’s Officer report.

4. I note the reasons why the trellis was installed on the lower fence in order to provide private space particularly for the appellants' children. However, the trellis is, in planning terms, part of the fence. Since an appeal on ground (a) has not been made there is no deemed application for planning permission before me. Hence I am unable to consider granting planning permission for the existing development to remain. I note the appellants' wish to provide that private space, but it is unclear what lesser steps could be undertaken to remedy the breach.
5. For these reasons, I conclude that the requirements of the notice do not exceed what is necessary in order to remedy the breach of planning control. As such, the appeal fails on ground (f).

Formal Decision

6. It is directed that the enforcement notice is corrected by replacing paragraph (2) at section 5 with:
 - (2) Make good all damage to the property resulting from compliance with requirement 1 of the notice.
7. Subject to the correction, the appeals are dismissed and the enforcement notice is upheld.

AJ Steen

INSPECTOR