



Appeal Decision

Site visit made on 10 December 2019

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 2nd February 2020

Appeal Ref: APP/J1535/C/19/3229932

7 High Silver, Loughton, Essex

- 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 Avtar Mann against an enforcement notice issued by Epping Forest District Council.
 - The enforcement notice was issued on 30 April 2019.
 - The breach of planning control as alleged in the notice is without planning permission: The erection of a wall, pillars and gates on the boundary of the Land, over 1 metre in height adjacent to a highway.
 - The requirements of the notice are to:
 - (i) Remove the unauthorised wall, pillars and gates from the Land;
 - (ii) Remove the height of the unauthorised wall, pillars and gates to 1 metre in height from ground level.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended (the Act).
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Decision

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

Preliminary Matter

2. Notwithstanding the absence of an appeal under ground (a) of Section 174(2) of the Act, the appellant has made comments in the appeal form which suggests he considers planning permission should be granted for what is alleged in the notice. However, I cannot consider the appeal under ground (a) since the prescribed fees have not been paid within the specified period.

Ground (c)

3. For an appeal to be successful under ground (c), the matters stated in the notice (if they occurred) must not constitute a breach of planning control. For the purposes of the Act, a breach of planning control is the carrying out of development without the required planning permission or failing to comply with any condition or limitation subject to which planning permission has been granted¹.
4. The matters alleged are that a wall, pillars and gates have been erected on the boundary of the residential appeal property, over 1 metre in height adjacent to a highway. These matters constitute development under the Act, since they involve the carrying out of building operations in, on, over or under land².

¹ Section 171A(1)

² Section 55(1)

5. No express planning permission has been granted. Further, there are no applicable exceptions to the requirement for planning permission for the development³. Development is not permitted by Article 3(1) and Schedule 2 Part 2 Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 if the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed 1 metre above ground level.

Conclusion

6. For the reasons given above I consider that the appeal should not succeed.

Andrew Walker

INSPECTOR

³ Section 57