



Appeal Decisions

Site visit made on 17 February 2020

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 02 March 2020

Appeal Refs:

Appeal A: APP/J4423/C/19/3240405

Appeal B: APP/J4423/C/19/3240406

351 Ecclesall Road South, Sheffield S11 9PX

- 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 Mr Pollard (Appeal A) and Mrs Pollard (Appeal B) against an enforcement notice issued by Sheffield City Council.
 - The enforcement notice was issued on 23 September 2019.
 - The breach of planning control as alleged in the notice is *Without planning permission, the unauthorised erection of a boundary fence and gate facing Ecclesall Road South and facing Whirlow Court at the Land*.
 - The requirements of the notice are to either:
 - (i) Reduce the height of the fence, gate and associated posts to no more than 1 metre from the immediately adjacent ground level;
 - or
 - (ii) Remove the fence, gate and associated posts from the Land.
 - The period for compliance with the requirements is 4 weeks.
 - The appeals are proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended.
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Summary Decision

1. The appeals succeed in part and the enforcement notice is upheld as varied in the terms set out below in the Formal Decision.

The appeals on ground (f)

2. An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, either the purpose of remedying the breach of planning control, or the purpose of remedying any injury to amenity which has been caused by the breach. The Council's reasons for issuing the notice concern the effect of the development on the character of the area, and the steps required to be taken are directed towards remedying the breach of planning control rather than any injury to amenity which may have been caused by the breach.
3. An appeal on ground (f) may be brought on the ground that the steps required by the notice to be taken exceed what is necessary to achieve the purpose for which the notice was issued. The steps required by the notice are framed in the alternative; either to remedy the breach entirely (step 5(ii)) or to reduce the height of the fence so as to reflect what could be erected under permitted development rights (step 5(i)).

4. As there is no appeal on ground (a) the planning merits of the fence are not before me for consideration. As an alternative to the steps required by the notice, the appellants seek to reduce the height of the fence to 1.8m. However, such a reduction would not achieve the purpose of the notice to remedy the breach of planning control and I am unable, on the appeals made on ground (f), to consider the general planning considerations put forward in support of the appellants' alternative proposal. A 1.8m high fence would not remedy the breach of planning control that the notice seeks to achieve, and no other alternatives to the steps required by the notice have been suggested that could achieve that purpose. Therefore the appeals on ground (f) do not succeed.

The appeals on ground (g)

5. The Council do not object to an extension of the time period stipulated by the notice and I agree that a longer period is necessary to allow for the engagement of contractors to dismantle or reduce the height of the fence. Therefore the appeals on ground (g) succeed and I shall vary the notice so as to extend the period for compliance to the 8 weeks sought by the appellants.

Conclusion

6. For the reasons given above I conclude that a reasonable period for compliance with the notice would be 8 weeks, and I am varying the enforcement notice accordingly, prior to upholding it. The appeals under ground (g) succeed to that extent.

Formal Decision

7. The appeals are allowed on ground (g) and it is directed that the enforcement notice be varied by the deletion of '4 weeks' and the substitution of '8 weeks' as the period for compliance. Subject to that variation the enforcement notice is upheld.

Laura Renaudon

INSPECTOR