



Appeal Decision

Site visit made on 26 February 2020

by Simon Hand MA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 04 March 2020

Appeal Ref: APP/F0114/C/19/3238045

Kite Lodge, Sion Hill, Landsdown, Bath, BA1 2UW

- 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 Jeff Arundell against an enforcement notice issued by Bath & North East Somerset Council.
 - The enforcement notice was issued on 3 September 2019.
 - The breach of planning control as alleged in the notice is without planning permission the demolition of a wall in a conservation area.
 - The requirements of the notice are to reinstate the 2.25m section of wall (as identified in the attached plan) that has been removed to the north of the existing access to match the remaining section of the wall; complete with matching capping (the pointing, jointing and coursing shall all match the remaining extent of the original wall).
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds 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 appeal 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.
 - An identical appeal has been made by Mrs Diane Arundell reference 3238046
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Decision

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

The Appeal on Ground (f)

2. This ground is that the requirements are excessive. In this case the requirements match the allegation in that there is no under enforcement and so it would seem the notice was issued to remedy a breach of planning control. The breach identified is the demolition of a wall in a conservation area and no lesser steps have been identified that would remedy the breach. The only way to solve the problem of a demolished wall is to rebuild. Therefore the requirements are not excessive and the appeal on ground (f) fails.
3. The appellant was notified of a mismatch of facts and grounds by the Inspectorate and the accompanying document clearly explains that ground (f) cannot be used to suggest planning permission should be granted for the matters alleged and that planning merits cannot be considered under ground (f). The appellants case is that the demolition is solely for highway safety concerns and the works are trivial and do not harm the conservation area. These are all matters of planning judgement that can only be considered in a ground (a), for which a fee is payable. As no fee has been paid ground (a)

cannot be considered and I have no choice but to dismiss the appeal and uphold the notice.

Simon Hand

Inspector