



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 9 August 2021

Appeal refs: APP/W4705/C/21/3270956 & APP/W4705/C/21/3270957 Land at Whitton Lodge, Wells Road, Ilkley, Yorks, LS29 9JE

- 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 brought by Mrs Charlotte Atkinson and Mr Richard Atkinson against an enforcement notice issued by the City of Bradford Metropolitan District Council.
- The notice was issued on 11 February 2021.
- The breach of planning control as alleged in the notice is "Without planning permission, the construction of a timber fence on top of the existing boundary wall on the north elevation which exceeds 1 metre in height adjacent to the highway as shown on the photographs annexed hereto".
- The requirements of the notice are: "(i) Carry out remedial works so that the unauthorised timber fence on top of the boundary wall on the north elevation is a combined height of 1 metre or less from the existing ground level of the pavement. (ii) Remove all arising materials from the land OR (i) Demolish the unauthorised timber fence on top of the wall on the north elevation. (ii) Remove all arising materials from the land".
- The time period for compliance with the notice is: "One month".
- The appeals are proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The appeals are dismissed and the enforcement notice is upheld but with variation.

Reasons for the decision

1. The appellants' case is based on the contention that it is unsafe to remove the unauthorised fence before approved renovation works to the property begin as there is an unsafe drop. They request that the period for compliance be extended to 1 year. However, I note that the appellants also state that the start of the renovation works is imminent. Therefore, it is not clear why another year is required to carry out the necessary works to comply with the requirements of the notice. I am also mindful that some 5 months have elapsed since the appeals were submitted with enforcement action effectively suspended. As the compliance period will begin again from the date of this decision, the appellants will effectively have had some 6 months in which to carry out the required works. Therefore, I am not satisfied there is good reason to justify extending the compliance period further and consider the stated harm caused by the unauthorised fence to the Ilkley Conservation Area should be brought to an end as soon as possible. The ground (g) appeals fail accordingly.
2. However, while I am dismissing the appeals, should the appellants experience any genuine difficulties, it will be open to them to submit a request to the Council to use their powers under section 173(1)(b) of the 1990 Act to extend the

compliance period themselves, should they be satisfied there is justification for doing so.

3. For the avoidance of any confusion, I shall amend the notice at paragraph 6 "TIME FOR COMPLIANCE" to stipulate from when the 1-month compliance period begins.

Formal decision

4. For the reasons given above, the appeals are dismissed and the enforcement notice is upheld, but varied at paragraph 6 "TIME FOR COMPLIANCE", by the addition of the words "after this notice takes effect" after "One month".

K McEntee