
Appeal Decisions

Site visit made on 1 September 2021

by Roy Curnow MA BSc(Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 20 September 2021

Appeal A Ref: APP/Z0116/C/21/3275737

Appeal B Ref: APP/Z0116/C/21/3275738

Troopers Court, 303 Crews Hole Road, Bristol BS5 8BQ

- The appeal is 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 James Knowles against an enforcement notice issued by Bristol City Council ('the Notice').
 - Appeal B is made by Ms Victoria Bishop against an enforcement notice issued by Bristol City Council ('the Notice').
 - The enforcement notice, numbered 20/30240/WAL, was issued on 5 May 2021.
 - The breach of planning control as alleged in the notice is: Without the grant of planning permission the erection of a means of enclosure over 1 metre in height and fronting a highway.
 - The requirements of the notice are: Dismantle and remove from the site the timber enclosure located to the front of the premises known as Troopers Court 303 Crews Hole Road.
 - The period for compliance with the requirements is 28 days.
 - Appeals A and B are proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.
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Decision

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

Reasons

2. An appeal under ground (f) 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. The appeal site is a former chapel that has been converted to 6 residential units. It lies on Crews Hole Road, which follows the north bank of the River Avon west towards the city centre. Troopers Court lies within the Avon Valley Conservation Area (AVCA).
4. The building is set back a short distance from the road, behind a low stone wall that lies on the edge of the carriageway. The fence that is the subject of the Notice is attached to the wall. It consists of a series of fairly substantial timber uprights to which thinner horizontal timber slats have been fixed. These are set fairly close together, with small gaps between them, providing a screen to the front of the building.

5. The purpose of the Notice is to remedy the breach of planning control. Established case law sets out that where, as here, appellants choose not to pursue an appeal under Ground (a), they cannot introduce general planning considerations or arguments about amenity under Ground (f).
6. The Appellants acknowledge that planning permission was required for the fence. They would have considered applying retrospectively but the Council had said that it would not support such an application. However, without an appeal under Ground (a), dealing with the planning merits of the fence, I am unable to take into account the arguments put forward by the Appellants in respect of: the privacy and protection from anti-social behaviour that the fence provides; the fence being appropriate to the area, in terms of design, materials and colour – though the latter might be changed; growing plants up the fence to help screen it; removing slats; lowering its height, though it would remain more than 1m high; and the other fences referred to and illustrated in their submissions.
7. Whilst I understand the points that the Appellants raise, none of these would remedy the breach of planning control. This is the underlying reason for issuing the Notice, and could only be achieved through the removal of the fence.

Other Matters

8. Whilst the site lies within the AVCA, the statutory duty¹ to pay special attention to the question of whether developments preserve or enhance the character or appearance of a conservation area are only instituted when there is a valid appeal on the planning merits of the case. Here, as there is no ground (a) appeal, there is no requirement to undertake the statutory test.

Conclusion

9. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice.

Roy Curnow

Inspector

¹ Section 72(1) Planning (Conservation Areas and Listed Buildings) Act 1990