
Appeal Decisions

Site visit made on 11 April 2022

by B S Rogers BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2022

Appeal A Ref: APP/W4705/C/21/3285951

Appeal B Ref: APP/W4705/C/21/3285952

Appeal C Ref: APP/W4705/C/21/3285953

Appeal D Ref: APP/W4705/C/21/3285954

Land at 19 Overton Drive, BRADFORD, BD6 3NE

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. Appeal A is made by Mr Khan Mahmood Khan, Appeal B by Mrs Rukhsana Lal Khan, Appeal C by Mr Adam Jamal Khan and Appeal D by Miss Shazana Kousar against an enforcement notice issued by City of Bradford Metropolitan District Council.
 - The enforcement notice was issued on 21 September 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the construction of a front boundary wall/fence and gates. The hard surfacing of the front garden area of the land with non-porous material with no provision to direct runoff water within the curtilage of the dwelling house.
 - The requirements of the notice are: (1) demolish the unauthorised front boundary wall/gate and remove the non-porous hard surfacing material from the front garden area of the land; OR (2) reduce the height of the front boundary wall/fence/gate so that no point exceeds 1 metre in height from the original ground level and remove the non-porous hard surfacing material from the front garden area of the land.
 - The period for compliance with the requirements is one calendar month.
 - The appeals are proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.
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Decision

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

Preliminary matter

2. The appellants submit that the development complies with current planning policy. However, no appeal was made on ground (a) and the prescribed fees were not paid within the specified period. Accordingly, the application for planning permission deemed to have been made under section 177(5) of the Act has lapsed and I am unable to take the planning merits into account.

The appeals on ground (c)

3. The definition of development in s.55 of the Act includes '*the carrying out of building, engineering, mining or other operations in, on, over or under land*'. It does not appear to be in dispute that the wall/fence and gates and the hard surfacing of the front garden fall within this definition and would amount to development requiring planning permission unless otherwise provided for.
4. Class A of Part 2 of Schedule 2 to the Town and Country Planning (General Permitted Development)(England) Order 2015 [GPDO] permits the erection,

construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure. However, other than in the case of a school, development is not permitted 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.

5. The wall, fence and gates here form a single development and, whilst a part of the wall might not exceed 1 metre in height, the overall development, including the masonry pillars, the metal fence and the metal gates are indisputably in excess of 1 metre in height. As such, they do not benefit from the provisions set out above and require planning permission.
6. Turning to the hardstanding, Class F of Part 1 of Schedule 2 to the GPDO permits within the curtilage of a dwellinghouse the provision of hard surfaces incidental to the enjoyment of a dwellinghouse subject to the condition that *'where – (a) the hard surface would be situated on land between a wall forming the principal elevation of the dwellinghouse and a highway and (b) the area of ground covered by the hard surface would exceed 5 square metres, either the hard surface is made of porous materials, or provision is made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse'*.
7. The concrete hardstanding in this case lies between the wall forming the principal elevation of the dwellinghouse and the highway, Overton Drive, and is more than 5 square metres in area. Whilst there is a steel channel drain set into the concrete hardstanding, this leads to the surface water gully and the mains drainage system and not to a permeable or porous area within the curtilage. Accordingly, it does not benefit from the provisions of Class F and requires planning permission.
8. I conclude that the appeals on ground (c) fail and that the enforcement notice should be upheld.

B S Rogers

INSPECTOR