The Planning Inspectorate

Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 19 April 2023

Appeal ref: APP/Z4718/C/22/3313100 & APP/Z4718/C/22/3313101
Land at 32 Gernhill Avenue, Huddersfield, West Yorkshire, HD2 2HR

- 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 Mr R Nefari & Mrs Houri Bayatinia against an enforcement notice issued by Kirklees Metropolitan Council.
- The notice was issued on 29 November 2022.
- The breach of planning control as alleged in the notice is "Without the benefit of planning permission, the alteration of an existing front/side boundary wall by increasing its height".
- The requirements of the notice are: "Dismantle and permanently remove the alterations to the wall, including the increased height of the existing wall and gate piers, and the rendering. Thereby returning the condition of the land to its state prior to the development commencing, as is shown as "Wall Existing Plan" (shown in Appendix 1) and on Google Maps Street View image from September 2020 (shown in Appendix 2)".
- The time period for compliance with the notice is "To complete step 5-60 days after the notice takes effect. Total time for compliance - 60 days after this Notice takes effect".
- 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 without variation.**

Reasons for the decision

1. The appellants assert that 60 days would not be enough time to source someone to undertake the required works and they request the compliance period be extended to 120 days. The appellants also contend that there is no expediency to carry out the works as there is no harm caused by the unauthorised development to amenity or highway safety. However, as an appeal has not been made on ground (a), the harm stated by the Council is taken as read and all that is before me to consider is whether or not the compliance period of 60 days is too short. With that in mind, it is noted that some 126 days have elapsed since the appeals were submitted with enforcement action effectively suspended. Therefore, the appellants have had more than the 120 days they have requested in order to arrange for the required works to be carried out. Therefore, it follows that there is no justifiable reason before me to extend the compliance period further. The ground (g) appeals fail accordingly.

Formal decision

2. For the reasons given above, the appeals are dismissed and the enforcement notice is upheld without variation.

K McEntee