



Appeal Decision

Site visit made on 8 August 2023

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 August 2023

Appeal Ref: APP/W4705/C/22/3313025

6 Sunnyhill Grove, Keighley BD21 1RU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Ward Electrical against an enforcement notice issued by City of Bradford Metropolitan District Council.
- The notice was issued on 3 November 2022.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a timber fence to the front and side boundaries of the land.
- The requirements of the notice are to:
 - i. Demolish the unauthorised timber fencing where positioned forward of the front (south facing) wall of the house and removing all arising materials from the land
 - Or:
 - ii. Reduce the height of the timber fencing where positioned forward of the front (south facing) wall of the house to no more than 1.00 metre from ground level.
- The period for compliance with the requirements is: 1 calendar month.
- The appeal is proceeding on the grounds set out in section 174(2)(c), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a correction in the terms set out below in the Formal Decision.

The Notice

1. The plan attached to the enforcement notice (the notice) outlines the incorrect property referred to as the land to which the notice relates in paragraph 2 of the notice. It appears to outline 8 Sunnyhill Grove instead of 6 Sunnyhill Grove. Therefore, the notice is defective in this regard.
2. Regulation 4(c) of the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002 states that 'An enforcement notice issued under section 172 of the Planning Act shall specify - the precise boundaries of the land to which the notice relates, whether by reference to a plan or otherwise.' Therefore, whilst a plan is invariably helpful in identifying the land to which a notice relates, it is not essential, providing it is done so by other means.
3. The land to which the notice relates is described as '6 Sunnyhill Grove, Keighley, BD21 1RU' in paragraph 2 of the notice and a photograph of the property and the matters alleged in the notice is attached to the notice. Therefore, within the four corners of the notice, it is sufficiently clear to what land the notice relates. Moreover, the appellant has not raised this issue and has therefore clearly understood which land the notice relates to.
4. Given the above, I shall correct the notice by deleting the reference to the plan in paragraph 2. I am satisfied this correction would not cause injustice to any parties.

The ground (c) appeal

5. The appeal on ground (c) is whether, on the balance of probabilities, the matters alleged in the notice do not constitute a breach of planning control. The burden of proof is upon the appellant.
6. The appellant contends the sections of fence that run perpendicular to the front elevation of the dwelling are not adjacent to the highway and are therefore permitted development.
7. However, the fence was erected as one operational development. It is not permissible to separate out parts of one development and to argue that those benefit from the grant of planning permission by way of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) and that other parts of the same development are to be assessed separately. As one building operation, falling within the meaning of development as set out in section 55 of the Town and Country Planning Act 1990 Act (the Act), either the whole of the development benefits from permitted development or none of the development benefits from permitted development.
8. Therefore, by reason that the front section of the fence that backs onto the back of the footway is in excess of 1m in height and is adjacent to the highway, none of the fence is permitted development, including the two side sections, referred to as sections 'A' and 'B' by the appellant.
9. The ground (c) appeal therefore fails.

The ground (f) appeal

10. This ground is that the notice requirements are excessive. Depending on the purpose of the notice, this can be assessed against the question of whether the requirements exceed what is necessary to remedy the breach of planning control; or, any injury to amenity.
11. Having regard to their ground (c) appeal, the appellant states that the requirements of the notice should be varied to allow the tapering of the fence sections 'A' and 'B'.
12. However, this variation of the requirements would not overcome the breach of planning control, which is the erection of the fence, as the fence would still remain. In addition, even when tapered, the sections 'A' and 'B' may still be in excess of 1m in height and be considered adjacent to the highway.
13. Moreover, the tapered sections may still obstruct highway visibility, particularly for drivers exiting the driveway of the adjacent property, 4 Sunny Hill Grove. Therefore, it would not overcome the injury to amenity.
14. The ground (f) appeal therefore fails.

The ground (g) appeal

15. This ground of appeal is that the period for compliance is unreasonably short.
16. The appellant has suggested a 3 month period of compliance to enable them to find a suitable alternative enclosure for their pets. No evidence is before me of what the pets are. Nevertheless, there is no evidence before me to indicate

why there are no temporary alternative measures available, for example, enclosing the pets in the rear garden of the property.

17. I therefore consider the 1 month period of compliance specified in the notice is not unreasonably short, and I do not find justification for extending it.

18. The ground (g) appeal must fail.

Formal Decision

19. It is directed that the enforcement notice is corrected by the deletion of the plan attached to the notice and the deletion of "shown edged red on the attached plan ("the land")" in paragraph 2 of the notice. Subject to this correction, the appeal is dismissed and the enforcement notice is upheld.

Alexander Walker

INSPECTOR