



Appeal Decision

Site visit made on 30 August 2023

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7TH SEPTEMBER 2023

Appeal Ref: APP/Y3615/C/22/3307904

Land at 4 Lawrence Close, Guilford GU4 7RD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Jack Lampard against an enforcement notice issued by Guildford Borough Council.
 - The enforcement notice was issued on 31 August 2022.
 - The breach of planning control as alleged in the notice is without planning permission operational development consisting of the erection of a wall as shown between points A and B on the attached plan.
 - The requirements of the notice are i) demolish the wall and ii) remove all material resulting from compliance with step 1.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (f) of the Town and Country Planning Act 1990 (the Act) as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Decision

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

Reasons

2. The appeal made 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 or to remedy any injury to amenity which has been caused by any such a breach.
3. The appellant's claim under ground (f) is that the removal of all the wall is excessive as he intends to reduce its height to 1 metre in line with permitted development rights contained within Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order). I do not know if permitted development rights exist in respect of the appeal site, but even if they did the whole of the appeal wall is unlawful and permitted development rights cannot be exercised retrospectively given paragraph 3(5) of the Order.
4. An appeal has not been lodged under ground (a) of section 174(2) of the Act and so it is not possible for me to consider the planning merits of altering the wall so that it measures 1 metre in height above ground level. It is clear that the breach of planning control relates to the erection of a wall. The purpose of the notice is to remedy the breach of planning control by removing all the wall.

The removal of all the wall is not therefore an excessive step as it would remedy the breach of planning control. I therefore conclude that the ground (f) appeal fails.

Conclusion

5. For the reasons given above, I consider that the appeal should not succeed.

D Hartley

INSPECTOR