



Appeal Decision

Site visit made on 19 February 2024

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2024

Appeal Ref: APP/K0425/C/22/3309342

Land at 1 Friars Gardens, Hughenden Valley, Buckinghamshire, HP14 4LT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr John Dockett against an enforcement notice issued by Buckinghamshire Council.
 - The notice was issued on 22 September 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of trellis on top of a fence.
 - The requirements of the notice are to:
 1. Remove the trellis from the fence (as shown within the green line on photographs A and B attached to this Notice).
 2. Remove all materials and debris resulting from complying with step 1 of this Notice from the land.
 - The period for compliance with the requirements is: 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) and (d) 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.

Ground (c)

2. This ground of appeal is that the matters alleged in the notice do not constitute a breach of planning control.
3. While the appellant has appealed under this ground, no information has been provided to demonstrate that the development is not a breach of planning control. As the Council have highlighted, the height of the boundary fencing, including the trellis, exceeds 1 metre in height adjacent to a highway, as set out in paragraph A.1(a)(ii) of Class A, Part 2 of The Town and Country (General Permitted Development) (England) Order 2015.
4. The appellant refers to the previous hedging that was present at the site, together with the reasons for its removal and replacement. There is also reference to other examples of similar fencing in the local area. However, these matters are unrelated to the factual assessment of whether a breach has taken place.
5. In the absence of evidence to the contrary, I find that the erection of the trellis is a breach of planning control, and thus the appeal under ground (c) must fail.

Ground (d)

6. Ground (d) is that, at the time the enforcement notice was issued, it was too late to take enforcement action. As the development being enforced against is

operational development, it would have had to be erected more than 4 years prior to the service of the enforcement notice to be immune. The notice was issued on 22 September 2022, and thus the relevant date is 22 September 2018.

7. The appellant has provided a copy of the invoice in respect of the initial erection of the stretch of fencing which is dated 27 April 2018. The appellant states that the trellis was fitted "a few weeks later" by their gardener.
8. However, the Council have provided dated 'Google Streetview' photographs, which show that in April 2019 the trellis was not present, but in May 2021 it was. On this basis, I find that on the balance of probabilities the trellis on top of the fencing was erected after the relevant date of 22 September 2018 and therefore is not immune from enforcement action.
9. Accordingly, the appeal on ground (d) fails.

Other Matters

10. The appellant challenges the Council's comments in respect of the acceptability of the appearance of the fencing. However, these are matters related to the planning merits of the development and, in the absence of any appeal under ground (a), not matters that affect my determination of this appeal.

Conclusion

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

Martin Allen

INSPECTOR