



Appeal Decision

Site visit made on 16 April 2024

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 May 2024

Appeal Ref: APP/M2515/C/23/3334037

59 Meadowlake Crescent, Lincoln LN6 0HZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr David Love against an enforcement notice issued by City of Lincoln Council.
 - The notice was issued on 1 November 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the excavation of an area within the front garden of the property, 59 Meadowlake Crescent, Lincoln.
 - The requirements of the notice are to: Fill in the excavation located in the front garden of the property with soil or other appropriate material and return the area to its former state, as grassed front garden, as illustrated in the photograph attached at appendix 1.
 - The period for compliance with the requirement is: 4 months.
 - The appeal is proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is corrected by:
 - In the section titled 'The Breach of Planning Control Alleged' the deletion of the words "Without planning permission," and "59 Meadowlake Crescent, Lincoln".
2. Subject to the above corrections, the appeal is dismissed and the enforcement notice is upheld.

The Notice

3. The alleged breach of planning control as stated in the enforcement notice includes the phrase 'without planning permission' and states the property address. These are both unnecessary and can be deleted. I can undertake these corrections using the broad powers available to me under the provision of section 176(1) of the Act without causing injustice to the parties.

Ground (f)

4. The appeal on ground (f) is that the requirements of the notice exceed what is necessary. When an appeal is made on ground (f), it is essential to understand the purpose of the notice. Section 173(4) of the Act sets out the purposes which an enforcement notice may seek to achieve, either wholly or in part. These purposes are, in summary, (a) to remedy the breach of planning control that has occurred, or (b) remedying any injury to amenity which has been caused by the breach. In this case, the requirements of the notice are to fill in the excavation in the front garden and return the area to its former state. The

purpose of the notice must therefore be to remedy the breach of planning control that has occurred.

5. At my site visit it was clear that an area to the front of the property had been excavated to a significant depth and included walls that appeared to act as a retaining structure. The appellant states that he intends to put raised decking in this area until such a time that a planning application for a new front extension to the dwelling has been submitted to and considered by the Council. The appellant also refers to applying render and a capping stone to the retaining wall, as well as additional landscaping to improve the visual appearance of the site. These though are arguments which relate to planning merits.
6. However, as there is no appeal under ground (a) consequently there is no deemed application for planning permission, as such there can be no arguments about the planning merits of the development under ground (f). The only consideration is whether the requirements exceed what is necessary to achieve the identified purpose of the notice, which in this instance is to remedy the breach of planning control.
7. Since the purpose of the notice is to remedy the breach of planning control, no lesser steps other than those set out in the notice would achieve that purpose. Therefore, the appeal on ground (f) fails.

Conclusion

8. For the reasons given above, I conclude that the appeal fails. I have therefore upheld the enforcement notice as corrected.

David Jones

INSPECTOR