



Appeal Decisions

Site visit made on 13 August 2024

by D Hartley BA (Hons), MTP, MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14TH AUGUST 2024

Appeal A Ref: APP/W4705/C/23/3336092

Appeal B Ref: APP/W4705/C/23/3336093

9A Beacon Brow, Bradford, BD6 3DE

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended). Appeal A is made by Mr Sheikh Junaid Ahmed and Appeal B is made by Mrs Sannah Junaid against an enforcement notice issued by City of Bradford Metropolitan District Council.
- The notice was issued on 23 November 2023.
- The breach of planning control as alleged in the notice is Without planning permission, the erection of a fence atop a brick wall, a pedestrian gate and a double gate.
- The requirements of the notice are to (i) dismantle the fence and posts atop the brick wall, (ii) remove the pedestrian gate, double gate and supporting structures, and (iii) remove all arising materials from the land.
- The period for compliance with the requirements is 1 calendar month.
- Appeal A is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 (as amended) (the Act) and Appeal B is proceeding on the grounds set out in section 174(2) (f) and (g) of the Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decisions

Appeal A Ref: APP/W4705/C/23/3336092

1. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B Ref: APP/W4705/C/23/3336093

2. The appeal is dismissed, and the enforcement notice is upheld.

Preliminary Matter

3. The Government consulted on reforms to the National Planning Policy Framework 2023 (the Framework) on 30 July 2024 (Consultation Draft Framework). The consultation closes on 24 September 2024. I afford the Consultation Draft Framework limited weight in decision making terms as a material planning consideration. Considering the deemed planning application main issue below, there are no proposed reforms in the Consultation Draft Framework which have a material bearing on how this appeal should be considered. In this regard, it has not been necessary for me to seek comments from the main parties in respect of the Consultation Draft Framework.

Appeal on ground (a) and the deemed planning application

Main issue

4. An appeal is made under ground (a) which is that planning permission ought to be granted in respect of the breach of planning control alleged in the notice. I have considered the reasons for issuing the notice and the main issue is the effect of the unauthorised development on the character and appearance of the area.

Reasons

5. The appeal property is a brick built dwellinghouse positioned on a corner plot in Beacon Brow. It falls within a prominent position where most of the dwellinghouses are semi-detached. The properties in this area are set back from the main roads and have proportionate front gardens and driveways with predominantly low boundary treatment comprising mainly of dwarf brick walls with either hedges or low railings positioned behind. The latter ensures that the dwellinghouses can be seen by passers-by. Overall, there is a design consistency to the pattern of development in the locality and this includes the height and appearance of the boundary treatment alongside main roads.
6. The breach of planning control includes the erection of wooden infill panels finished in a grey colour and set within a metal framework, as well as a solid grey pedestrian gate with a black metal decorative feature on top, and the provision of a pair of solid grey gates to the driveway in a similar appearance to the pedestrian gate. The boundary treatment has resulted in the appeal site being fully enclosed on two sides.
7. Owing to the height, length, colour, and design of the unauthorised development, I find that it departs unacceptably from the otherwise more open outside amenity areas that are experienced by passers-by in Beacon Brow. The boundary treatment has a dominating impact in the street-scene and is seen as an incongruous addition which fails to assimilate well into its wider visual context.
8. The appellant has submitted what he considers is an alternative scheme. He proposes that the pedestrian gate and the fence to the '*front of the house*' be removed up to the corner/side elevation of the property. This is acceptable from the point of view of compliance, in part, with the requirements of the notice.
9. Notwithstanding the above, the appellant states that a new pedestrian gate would be erected '*at a height of the boundary wall on this elevation*'. I do not have details of the appearance of the replacement pedestrian gate, and, in any event, such a proposal is not a matter that I can consider as part of this appeal. This is because a ground (a) appeal can only relate to the breach of planning control alleged in the notice, whether that be in whole or in part. Should the appellant want to explore the potential of erecting an alternative form of boundary treatment, they should separately discuss that with the local planning authority (LPA). In other words, the proposed replacement pedestrian gate does not form part of the matters alleged in the notice and so does not fall to be considered given the provisions of section 177(1) of the Act.
10. Similarly, the proposed alternative scheme includes the replacement of the solid double gates with new double gates which would have metal bars, as well

as the replacement of one solid fencing panel adjacent to the double gates with metal bars. As per the proposed replacement pedestrian gate, such a proposal does not relate to part of the matters comprising the breach of planning control and would need to be discussed separately with the LPA. The alternative scheme continues to include a long length of unauthorised solid fencing above the original brick wall. In this regard, the alternative proposal would continue to include a type of boundary treatment which causes material harm to the character and appearance of the area.

11. For the above reasons, I conclude that the breach of planning control has a significantly detrimental impact on the character and appearance of the area. It therefore fails to accord with the design, character, and appearance requirements of policies DS1 and DS5 of the Council's adopted Core Strategy Development Plan Document 2017 and Chapter 12 of the Framework.

Other considerations

12. The appellants comment, as part of their ground (g) appeals, that the fence and gates were initially erected due to privacy issues. I have not been provided with specific details of the privacy issues relating to the appeal property. Furthermore, I do not know if the appellant has explored the potential for alternative boundary treatment options such as the planting of a semi-mature evergreen hedge behind the existing dwarf brick wall. In any event, the harm caused to the character and appearance of the area arising from the breach of planning control is significant and, in this case, outweighs any perceived privacy concerns.

Ground (a) appeal conclusion

13. For the reasons given above, I conclude that the development does not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, the ground (a) appeal fails.

Appeals on ground (f)

14. 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. The purpose of the notice is to remedy the breach of planning control.
15. I am not entirely certain from the evidence about the basis for any claim made under ground (f). I assume that it based on the submitted alternative scheme which I have considered as part of the ground (a) appeal. As outlined earlier, it is not possible for me to consider the alternative scheme as the proposed changes do not relate to the matters alleged in the notice.
16. I conclude that the steps in the notice are not excessive. They are necessary to remedy the breach of planning control. Therefore, I conclude that the ground (f) appeals fail.

Appeals on ground (g)

17. The appeals made on ground (g) is that the period specified in the notice in accordance with section 173(9) of the 1990 Act (as amended) falls short of what should reasonably be allowed.
18. The claim made by the appellants is that remedial work has been delayed due to Christmas holidays and as the building contractor is '*pre-occupied with work*'. It is no longer Christmas holidays. Moreover, the evidence does not demonstrate that the building contractor is not now available, or that it would not be possible to employ a different contractor to ensure compliance with the requirements of the notice.
19. I do not consider it likely that the requirements of the notice would result in time consuming remedial action. I therefore find that a compliance period of one month is reasonable. Consequently, I conclude that the ground (g) appeals fail.

Conclusions

Appeal A Ref: APP/W4705/C/23/3336092

20. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Appeal B Ref: APP/W4705/C/23/3336093

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

D Hartley

INSPECTOR