The Planning Inspectorate

Appeal Decision

Site visit made on 15 October 2024

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd October 2024

Appeal Ref: APP/A2335/C/24/3340590
20 Oakville Road, Heysham, Lancaster, LA3 2TB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Lewis O'Connor against an enforcement notice issued by Lancaster City Council.
- The notice was issued on 15 February 2024.
- The breach of planning control as alleged in the notice is 'Without planning permission, the erection of a boundary wall and gate over 1m in height, adjacent to the highway'.
- The requirements of the notice are to: i. Take down the entire wall and associated gate, and ii Remove all resultant material and debris from the Land; Or, iii Reduce the entire wall to 1m in height and remove the associate gate, and iv remove all resultant material and debris 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)(f) and (g) of the Town and Country Planning Act 1990 (as amended).

Decision

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

The Appeal on Ground (f)

2. This ground of appeal is that the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity caused by the breach.

3. In this case the notice alleges the erection of a boundary wall and gate. It requires their removal *OR* the reduction in height of the wall to 1m and the removal of the gate. The latter option provides for retaining the lower section of the wall to address the injury to local visual amenity, as identified by the Council.

4. The Notice's alternative of reducing the height of the wall to the maximum permitted under the Town and Country (General Permitted Development) (England) Order 2015, is an obvious alternative to its complete removal. The reduced height of the wall reflects a proposal that was considered as part of a wider scheme submitted under planning application Ref. 23/00539/FUL and a subsequent appeal[1]. Those decisions found a 1m high boundary wall acceptable in planning terms.

5. Because the appellant has not appealed the notice on ground (a), so that I could consider planning merits, the only case the appellant can make for ground (f) is that lesser steps would suffice to remedy the injury to amenity. However, in the absence of details of any alternative proposal, there is no

[1] APP/A2335/W/23/3326429

basis to consider any other option as this could prejudice one or more parties in the appeal. Accordingly, the appeal on ground (f) fails.

The appeal on ground (g)

6. This ground of appeal is that the period for compliance specified in the Notice falls short of what should reasonably be allowed. The period for compliance is 2 months.

7. Whether or not it was expedient for the Council to take action at a time when there was an outstanding appeal for the redevelopment of the site is not a matter for this appeal. Moreover, the appeal referenced above was concluded earlier this year. In the absence of other justification from the appellant, I find the time specified in the notice is reasonable to balance the public interest of securing expeditious compliance with the enforcement notice against the private interest bound up in the development subject of the Notice.

Conclusion

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

R Hitchcock

INSPECTOR