



Appeal Decisions

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 A Ref: APP/A2335/C/23/3329827

Appeal B Ref: APP/A2335/C/23/3329828

12 The Shore, Bolton-le-Sands, Lancaster, Lancashire, LA5 8JR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). Appeal A is made by Mr Kenneth John Griffith against an enforcement notice issued by Lancaster City Council. Appeal B is made by Mrs Margaret Griffith.
 - The notice was issued on 17 August 2023.
 - The breach of planning control as alleged in the notice is 'The raising in height of the front boundary wall without planning permission'.
 - The requirements of the notice are to: (a) Remove the section of the boundary wall that has been increased in height, as identified between points A-B on the plan found at Annexe B, and re-instate to its former height. (b) Remove all resultant materials from (a) above from the Land.
 - The period for compliance with the requirements is: 4 months.
 - The appeals are proceeding on the grounds set out in section 174(2)(b) and (f) of the Town and Country Planning Act 1990 (as amended).
-

Decision

1. Appeals A and B are dismissed and the enforcement notice is upheld.

Preliminary Matter

2. As set out above, there are two appeals relating to the same site and the same development. Accordingly, I have dealt with the appeals concurrently to avoid repetition.

The appeals on ground (b)

3. An appeal on ground (b) is that the matters set out in the Notice – the development alleged to be in breach of planning control – has not occurred. In order to succeed on ground (b), the appellant must demonstrate that the height of the wall had not been changed to its existing height. The test of the evidence is on the balance of probabilities.
4. The appellants' evidence refers to essential safety repairs having taken place to the wall and accepts that builders were on site carrying out works to it. However, the evidence also confirms that alterations were made to round-off a formerly square wall to improve visibility when exiting the site.
5. Moreover, whereas I was able to observe that the existing wall is finished to a height above the double gates to the driveway, that height is not visible in a photograph provided by the appellant showing the same gates. The end of a wall alongside the gatepost appears lower than the post itself. Furthermore, an undated photo taken from the upper floor of 12 The Shore, does not appear to

show a high wall where it meets the neighbouring boundary to 11 The Shore, where one now stands.

6. I acknowledge the appellants' position that the existing wall is lower than the height and width of vegetation previously close to the front boundary. However, that is a distinct matter from whether or not development¹ has taken place. On the evidence before me, I find that the wall has probably been increased in height without planning permission and the Appeal on ground (b) therefore fails.

The appeals on ground (f)

7. This ground of appeal is that the steps required by the notice to be taken, or the activities required to cease, 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.
8. The Notice requires the reinstatement of the former height of the wall. It therefore seeks to remedy the breach of planning control.
9. In support of the development the appellants have provided evidence of high walls and other means of enclosure close to the highway elsewhere. However, as the appellants have not appealed the notice on ground (a), so that I could consider planning merits, I have no scope to consider whether the requirements of the Notice are excessive to remedy the breach of planning control.
10. The only case the appellants can make for ground (f) is that lesser steps would suffice to remedy the breach. However, in the absence of any potential alternative scheme, or any obvious alternative to the steps in the Notice, the appeal on ground (f) must fail.

Other matters

11. I note the appellants' comments with respect to the expediency of the enforcement action taken by the Council. However, this is not a matter for the appeal. Various comment made by, and in response to, a third-party representation have limited relevance on the limited grounds of appeal.

Conclusion

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

R Hitchcock

INSPECTOR

¹ As defined by s55 of the Town and Country Planning Act 1990