



Appeal Decision

Site visit made on 22 October 2024

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2024

Appeal Ref: APP/Q1445/C/23/3335715

7 Meadow Close, Hove BN3 6QQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act). The appeal is made by Mr Saaïd Abdulkhani against an enforcement notice issued by Brighton & Hove City Council.
- The notice was issued on 21 November 2023.
- The breach of planning control as alleged in the notice is without permission the construction of boundary walls and piers to the front and sides of the Property.
- The requirements of the notice are to:
 1. Reduce the height of the wall, including piers, fronting and parallel to the highway, to no more than 0.6 metres.
 2. Reduce the height of the wall, between the Property and the property at number 8 Meadow Close, perpendicular to the highway to no more than 0.6 metres for a length of 2 metres from the highway (for clarity the highway being the pavement).
 3. Reduce the height of the wall, between the Property and the property at number 6 Meadow Close, perpendicular to the highway to no more than 0.6 metres for a length of 2 metres from the highway (for clarity the highway being the pavement).
- The period for compliance with the requirements is: 3 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).

Summary Decision: The appeal is dismissed and the enforcement notice upheld.

Preliminary Matters

1. During my visit to the site I noted that the boundary wall and piers have been reduced in height.

The Appeal on Ground (f)

2. An appeal on this ground 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 which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. In this case, the requirements seek to reduce the height of the boundary walls. Although not specified in the enforcement notice, the Council indicate that they consider this is in order to remedy the breach of planning control.
3. The drawing showing the pre-existing wall shows a low brick wall to the frontage, and a wall stepped down to one side of the property with a hedge on the opposite boundary. The requirements of the notice do not expressly require the wall be returned to its original shape. It is not clear that the requirements of the notice would restore the land to its condition before the breach took place. The Council indicate that the reduction in height would be to ensure the walls would not result in an obstruction to the view of persons using the highway. As

a result, I consider that the requirements are seeking to remedy the injury to amenity that has been caused by the breach.

4. I understand that planning permission has since been granted for a revised boundary treatment at the property. I note that section 180 of the Act states that where, after service of a copy of an enforcement notice, planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.
5. In the appeal documentation, there was a suggestion that the piers could be removed but the wall remain and the side walls be stepped, albeit not reduced to 600mm. It is unclear how this was intended to appear and if that is the work that has been carried out or was subject of the planning application. I am unsure whether that proposal would address the reasons for issuing the notice, particularly that relating to the character and appearance of the area.
6. The appellant has sought clarity as to how the 0.6 metres referred to in the enforcement notice should be measured. The Council have addressed that in their statement. I consider the enforcement notice is sufficiently clear in this regard. My attention has also been drawn to a lack of reference to planting in the notice, but it is unclear how the notice should be varied. I consider that further information on planting is not necessary to be included on the notice.
7. The appellant suggests that it was premature to issue an enforcement notice. However, this relates to the expediency of the decision to take enforcement action, which is a matter for the Council and not subject of this appeal.
8. For these reasons, I conclude that the appeal under ground (f) should fail.

Formal Decision

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

AJ Steen

INSPECTOR

