



Appeal Decision

Site visit made on 19 December 2016

by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 January 2017

Appeal Ref: APP/Q46254/C/16/3157222

Land at The Wainhouse, Main Road, Meriden CV7 7LA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs Patricia M Lord against an enforcement notice issued by Solihull Metropolitan Borough Council.
 - The enforcement notice was issued on 2 June 2016.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a 1.8 metre high wire mesh fence in the approximate position shown with a blue line on the plan attached to the notice within the curtilage of Meriden Hall a grade II* listed building.
 - The requirements of the notice are to:
 - (1) Take up and remove the wire mesh fencing and fence posts.
 - (2) Remove the material arising from the taking of step (1) from the property.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (c) of the Town and Country Planning Act 1990 as amended.
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Decision

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

Ground (c)

2. In pursuing an appeal on this ground, the onus of proof is squarely upon Mrs Lord to show, on the balance of probabilities, that the matters stated in the notice do not constitute a breach of planning control.
 3. The 1.8 m high fence comprises wire mesh affixed to vertical posts that are physically attached to the ground. Because of its dimensions and size, it was probably erected on site. It cannot move because it is fixed in position and it does not possess an ephemeral character. Indeed, there is nothing before me to suggest that it has moved since its construction. It is a permanent structure that functions as a physical barrier. Mrs Lord says her gardeners erected it, but significant building operations have been carried out, given the fence's nature and scale. For planning purposes, the erection of the fence amounts to a single building operation.
 4. Part 2 Class A Schedule 2 to the Town and Country Planning (General permitted Development) (England) Order 2015 as amended grants a deemed planning permission for the erection of a fence subject to conditions and limitations. I am afraid that paragraph A.1 sub-section (d) states that development is not permitted by Class A if it would involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building. The undisputed evidence is
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the subject fence falls within the curtilage of Meriden Hall, which is a grade II* listed building. That fact is undisputed between the appeal parties.

5. Express planning permission is required for the matters alleged and it has not been obtained. Therefore, ground (c) must fail.

Ground (a)

6. The terms of the deemed application are directly derived from the allegation. Planning permission is sought for erection of a 1.8 m high wire mesh fence. The **main issue** is the effect of the development upon the setting of Meriden Hall.
7. An early 18-Century ashlar country house, Meriden Hall is an imposing building set in extensive landscaped surroundings. The Wainhouse, which is set away from the listed building, is adjacent to The Grange and is said to be part of a collection of curtilage buildings. There is a caravan park nearby but the appeal property is located within a spacious and leafy plot, which firmly falls within the setting of Meriden Hall because of its location.
8. The fence functions as a barrier but the type and nature of material utilised detract from the architectural style of The Wainhouse. The wire mesh and slender posts are not obvious to the naked eye and soft planting screens the plot. Nevertheless, in this semi-rural location, it has an urbanising effect and is out of keeping with the listed building's special architectural interest. I appreciate the fence is 'see through', but the design and layout is not conducive to the landscape setting in which the heritage asset is experienced.
9. In the terms of the National Planning Policy Framework, the harm caused to the setting of the listed building is less than substantial. There is, however, real and serious harm, which requires clear and convincing justification. Mrs Lord says that some kind of fence is required to act as a safety feature, because of her husband's medical condition. Once this particular need ceases, she insists the fence would be removed. The evidence presented, however, does not show that the fence as erected is the only design solution. In my assessment, the material utilised as well as its haphazard arrangement would continue to cause unacceptable visual harm. I do not consider conditions could make the development acceptable in planning terms, because of the material used in the construction of the fence.
10. In balancing the various considerations, I consider that any benefits of the development are insufficient to outweigh the considerable importance and weight that is attached to the visual harm caused to the heritage asset by the development. Accordingly, the latter conflicts with heritage protection aims of policy P16 Solihull Local Plan 2013.

Conclusion

11. For the reasons given above and having regard to all other matters, I conclude that the appeal should not succeed. I have upheld the enforcement notice and refused to grant planning permission on the deemed application.

A U Ghafoor

Inspector