



Appeal Decision

Site visit made on 29 July 2019 by S Watson BA (Hons) MSc

Decision by Andrew Owen BA(Hons) MA MRTPI

Inspector appointed by the Secretary of State

Decision date: 06 August 2019

Appeal Ref: APP/T3725/D/19/3226357

2 Satchwell Place, Leamington Spa CV31 1HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Miss Melanie Duggan against the decision of Warwick District Council.
 - The application Ref W/18/1276, dated 16 June 2018, was refused by notice dated 11 October 2018.
 - The development proposed is described as 'replacing high 6ft fencing panels in poor condition on both sides and across garden with new feather boarding – 4ft high (with small 6ft privacy fence) – to enclose 3 sides of new garden'.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. At the time of my site visit, the fence had already been erected and therefore I am considering this appeal retrospectively.

Main Issue

4. The main issue in this case is the effect of the proposal on the setting of a Grade II Listed Building and the character and appearance of the Leamington Spa Conservation Area (LSCA).

Reason for the Recommendation

5. The appeal site is part of a terrace comprising Satchwell Place, which is accessed from an alley off the south side of New Street. The terrace is set back from the path by substantial front gardens. Metal railings form the front boundary of the gardens along the terrace. Behind the railings and along the sides of the garden at No 2 Satchwell Place a timber fence with concrete posts has been erected.

6. The terrace is a Grade II Listed Building within the LSCA. This conservation area covers a large portion of the town, and its significance generally derives from its well preserved Regency heritage. The listed building at Satchwell Place is a Regency terrace, the setting of which is primarily characterised by the openness afforded by the front gardens and the low, open boundary treatments. This openness provides a pleasant contrast to the narrow alleyway on to which it fronts.
7. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require me to pay special regard to the desirability of preserving the setting of a listed building, and to preserving or enhancing the character or appearance of a conservation area, respectively. In this regard national policy on heritage assets is set out in the National Planning Policy Framework (NPPF). At paragraph 192, it sets out matters which should be taken into account including sustaining and enhancing the significance of the heritage asset and the desirability of new development making a positive contribution to local character and distinctiveness.
8. Although the solid timber fence erected around the front and sides of the front garden is behind the existing railings and partially screened to the front by planting, it does not respect the open character of the terrace and adjoining gardens. Furthermore, while I understand the fence panels have weathered since first installed, the posts are a vivid light grey colour and, as the fence is taller than the railings, it is visually intrusive. In comparison to the lightweight design of the railings, the timber fence looks cumbersome and jarring and its modern appearance does not respect the historic character of the heritage assets.
9. There are some alternative boundary treatments nearby, including a picket fence and wire fence serving other properties along the terrace, some of which which have been supplemented by shrubs and hedges. However, none are similar in their style, or appear as stark in their setting, as the timber fence. Boundaries further along the alley have also been brought to my attention but, the character of the alley changes beyond the bend to the south of the appeal site and so I give the development in this section little weight in the determination of the appeal. It has also been raised that there is other development in the wider area which is out of keeping and that the LSCA is therefore not coherent. However, other incongruous development should not justify this development that is itself unacceptable in its distinct context.
10. Although the appeal site is fairly enclosed and is not immediately visible in the wider area, its location in the LSCA means it still has an impact on the historic interest of the area, albeit that impact is focussed. Likewise, although the alley past the site may not be regularly used, this does not mitigate the harm caused to the historic environment.
11. I acknowledge that the appellant has offered to provide landscaping around the fencing to reduce the visual impact of the proposal. However, landscaping could take a considerable time to mature and even then, it would be unlikely to hide or soften the fence acceptably and therefore mitigate the harm that I have identified. This would especially be the case down the north side of the fence on the northern boundary where there is little room for planting. Likewise, although painting the fence panels and posts may go some way to soften their appearance it would not alleviate the solid design.

12. Therefore, for the reasons above I conclude that the fence harms, and fails to preserve or enhance, the character and appearance of the LSCA and the setting of the Grade II Listed Building. It is contrary to the NPPF and policies BE1, HE1 and HE2 of the Warwick District Local Plan 2011-2029, which together seek to conserve or enhance conservation areas and the setting of listed buildings, and achieve high quality design.
13. The NPPF is clear that great weight should be given to a historic asset's conservation. Nonetheless, in this case, the harm that is caused to the significance of the heritage assets is less than substantial and hence that harm needs to be weighed against the public benefits of the proposal.
14. There is some anecdotal evidence submitted, by the appellant and other supporters, that there is a high level of crime and anti-social behaviour around the appeal site but that the new fence has helped reduce these instances. However, there is no substantive evidence of this so I can only give it little weight. Furthermore, whilst I have no doubt that the provision of a safe and private garden may be of benefit to the appellant, it does not amount to a public benefit identified. In any case, I am not convinced that the height of the fence is sufficient to provide privacy.
15. The appellant has suggested that the current fence affords better public views of the listed building and have a lesser impact on its historic interest, in comparison to the previous fence. However, as the previous fence was removed some time ago, I cannot accurately compare the existing fence to the previous one. Similarly, I cannot attest to any aesthetic benefit there may have been by removing the previous fence. I therefore can only give these matters very little weight.
16. Overall, although the harm to the heritage assets is less than substantial, I do not consider the public benefits outweigh that harm.

Other Matters

17. Any advice given to the appellant by the Council regarding the erection of the fence cannot bind my assessment of the planning merits of this appeal. Furthermore, while I note that there is support for the development, including from a councillor, this does not alter my conclusion that the development is inappropriate in its context.
18. It is not within the remit of this appeal to consider whether the previous fence should be reinstated. Moreover, the source of any funding for alternative fencing carries no weight in the determination of this appeal.
19. Although suggestions for gating or renovating the alley have been made by third parties, these alternatives do not have any bearing on the merits of this proposal.

Conclusion and Recommendation

20. For the reasons given above I recommend that the appeal should be dismissed.

S Watson

APPEAL PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Andrew Owen

INSPECTOR