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## Appeal Decision

Site visit made on 7 October 2020

**by JP Roberts BSc(Hons) LLB(Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 October 2020**

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**Appeal Ref: APP/V1260/C/20/3255799**

**36 Uplands Road, Bournemouth BH8 9SS**

- 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 Mr SA May against an enforcement notice issued by Bournemouth Christchurch and Poole Council.
  - The enforcement notice was issued on 9 June 2020.
  - The breach of planning control as alleged in the notice is:  
*Without planning permission the erection of boundary fencing along the side boundary between 36 and 38 Uplands Road Bournemouth (approximate location of fence marked in red on the attached plan).*
  - The requirements of the notice are:  
*Either:-*  
*Remove the fence and its fixings on the south facing side boundary between 36 and 38 Uplands Road (approximate location of fence marked in red on the attached plan) and remove all resultant materials from the land.*  
*Or:*  
*Reduce the height of the fence (including posts and fixings) to not more than two metres in height measured from ground level on the South facing side boundary between 36 and 38 Uplands Road (approximate location of fence marked in red on the attached plan) and remove all materials from the land.*
  - The period for compliance with the requirements is one month.
  - 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.
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### Decision

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

### Appeal on ground (f) – that the requirements of the notice are excessive

2. The appeal on this ground is limited to the part of the requirement to remove the materials arising from the demolition of the fence from the land, because the appellant wishes to incorporate them in a car port which he intends to construct using permitted development rights under the Town and Country Planning (General Permitted Development) (England) Order 2015.
3. The purpose of the notice is to remedy the breach of planning control, using the powers under s.173(4)(a), rather than to remedy any injury to amenity, under s.173(4)(b). The notice does no more than is required to remedy the breach, and therefore the requirements are not excessive. No appeal has been made under ground (a), and therefore the planning merits of lesser requirements cannot be considered.

4. The appeal on ground (f) therefore fails.

*Appeal on ground (g) – that the period for compliance falls short of what should reasonably be allowed*

5. The notice imposes a one month period for compliance. I consider that this is a reasonable time in which to take down a fence and remove the materials from the land. I understand the appellant's desire to be able to keep the fencing materials on site, with a view to their being used in a proposed car port, and that an application for a certificate of lawful development has been made to the Council.
6. However, the fence is not a large one, and the constituent parts could readily be kept elsewhere until required. As I have explained above, I have no power to vary the terms of the notice to require, for example, that the demolished fence parts be kept out of sight at the rear of the property, and extending the period for compliance would run the risk that the stored parts could be kept somewhere where they might be visually intrusive or harmful to the visual amenity of neighbours.
7. Accordingly, the appeal fails on ground (g).

### **Conclusion**

8. For the reasons given above, I conclude that the requirements of the notice are not excessive to remedy the breach of planning control, and the appeal on ground (f) fails. The period for compliance with the notice does not fall short of what is reasonable. The appeal on ground (g) therefore fails. I shall uphold the notice.

*JP Roberts*

INSPECTOR