



Appeal Decision

Site visit made on 20 January 2021

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

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

Decision date: 22 January 2021

Appeal Ref: APP/T3725/C/19/3239152

2 Satchwell Place, Leamington Spa CV31 1HT

- 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 Ms Melanie Duggan against an enforcement notice issued by Warwick District Council.
 - The enforcement notice was issued on 10 September 2019.
 - The breach of planning control as alleged in the notice is the erection of a concrete and timber fence around the boundary of the front garden of the land.
 - The requirement of the notice is permanently remove the fence and all of the associated fixtures and fittings from the front garden of the land.
 - The period for compliance with the requirement is 1 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.
-

Appeal Ref: APP/T3725/F/19/3239154

2 Satchwell Place, Leamington Spa CV31 1HT

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Ms Melanie Duggan against a listed building enforcement notice issued by Warwick District Council.
 - The enforcement notice was issued on 10 September 2019.
 - The contravention of listed building control alleged in the notice is the unlawful erection of a concrete and timber fence around the boundary of the front garden of the land.
 - The requirement of the notice is permanently remove the fence and all of the associated fixtures and fittings from the front garden of the land.
 - The period for compliance with the requirement is 1 month.
 - The appeal is made on the grounds set out in section 39(1)(g) and (h) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
-

Decision

1. The appeals are dismissed and the enforcement notices are upheld.

Reasons

2. 2 Satchwell Place is a mid-terraced dwelling that is part of a Grade II listed building. In front of the dwelling is a garden surrounded by a fence. Planning permission was refused for retention of the fence in October 2018 and a subsequent appeal was dismissed. The Appellant has not made a ground (b) or (c) appeal, in either case, and therefore accepts that the fence is a breach of planning control and a contravention of listed building control. In this regard, whether or not the fence touches or is attached to the listed building is not relevant. A ground

(a) planning enforcement appeal and a ground (e) listed building enforcement appeal have not been made. Retention of the fence, and the merit of maintaining vegetation covering the fence, is not therefore a matter for consideration.

The ground (f) planning appeal and the ground (g) listed building appeal

3. These appeals are made when the Appellant claims that the requirement of the notice, which is the same in both cases, is excessive. The notices do not require the installation of a replacement fence, only the removal of the fence that is a breach of planning and listed building control. This is the minimum requirement and is not excessive. Proposals for a replacement fence must be considered by the Council in the first instance and none of the matters mentioned by the Appellant in support of her appeals, including comments about previous fencing at the property, alters the conclusion that the ground (f) planning enforcement appeal and the ground (g) listed building enforcement appeal fail.

The ground (g) planning appeal and the ground (h) listed building appeal

4. These appeals are made when the Appellant claims that the period for compliance with the requirement of the notices is too short. The Appellant has not addressed this matter in her appeal submissions and has not indicated what alternative compliance period would be reasonable. The ground (g) planning enforcement appeal and the ground (h) listed building enforcement appeal fail.

John Braithwaite

Inspector