



Appeal Decision

Site visit made on 5 January 2026

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

an Inspector appointed by the Secretary of State

Decision date: 08 January 2026

Appeal Ref: APP/W4325/C/24/3350327

7 Lydiate Farm, The Lydiate, Heswall, Wirral CH60 8QN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Ms Lynnette Bowen against an enforcement notice issued by Wirral Metropolitan Borough Council.
- The notice was issued on 16 July 2024.
- The breach of planning control as alleged in the notice is erection of a fence around open aspect lawned area to the rear elevation of the land within the Heswall Village Conservation Area measuring 1.9 m in height.
- The requirements of the notice are 1. Demolish and permanently remove the timber fencing and posts in their entirety from the land; and 2. Remove from the land all fencing materials and rubble arising from compliance with step 1 and re-instate the land to its former contours, profiles, and surface treatment to match the contours, profiles, and surface treatment of the land immediately adjacent.
- The period for compliance with the requirements is 2 calendar months.
- The appeal is proceeding on the grounds set out in section 174(2)(c) and (f) of the Town and Country Planning Act 1990 (as amended).

Decision

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

Reasons

The ground (c) appeal

2. 7 Lydiate Farm is a semi-detached dwelling that has resulted from the implementation of planning permission APP/2003/5653. Condition 2 of the planning permission withholds permitted development rights for the erection of, amongst other things, fences. The original rear garden of the dwelling has been extended pursuant to the implementation of planning permission APP/2015/01182 for the construction of two dwellings on neighbouring land. Condition 13 of the planning permission withholds permitted development rights for the erection of, amongst other things, enclosures.

3. For a ground (c) appeal to succeed the breach of planning control must either be permitted development or it must benefit from planning permission. The fences that partially enclose the rear garden of the appeal property are not development permitted under the provisions of The Town and Country Planning (General Permitted Development)(England) Order 2015 because relevant permitted development rights are withheld by the aforementioned conditions. Planning permission has not been granted for the enclosing fences. The ground (c) appeal therefore fails.

The ground (f) appeal

4. A ground (f) appeal is made when it is claimed that the requirements of an enforcement notice are excessive and that lesser steps would overcome the objections.

The removal of below ground timber post footings is not likely to cause any significant ground disturbance. Parts of the fences that enclose the garden area have been replaced by laurel hedging. The remaining timber fences are a breach of planning control and their removal, the principal requirement of the notice, is necessary to remedy the breach. The ground (f) appeal therefore fails.

Other matters

5. In the Appellant's appeal statement reference is made to a ground (g) appeal, which was not made at the time the appeal was submitted. This factor notwithstanding, under a ground (g) appeal the Appellant is required to state what would be a reasonable compliance period and why. This has not been done. Two months, as stated in the enforcement notice, is a reasonable period to procure and carry out the work required to comply with the requirements of the notice. The majority of the planning assessment set out in the Appellant's appeal statement relates to the merits of the retention of the fences and to comparison with other fences in the area. These are matters only relevant to a ground (a) appeal, which has not been made.

John Braithwaite

Inspector