

**Application No:** [W 18 / 1276](#)

**Town/Parish Council:** Leamington Spa  
**Case Officer:** Helena Obremski

**Registration Date:** 13/08/18

**Expiry Date:** 08/10/18

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**2 Satchwell Place, Leamington Spa, CV31 1HT**

Retrospective permission for installation of fence to front of property. FOR Miss  
Melanie Duggan

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This application is being presented to Committee as there have been more than 5 letters of support received and the application is recommended for refusal.

**RECOMMENDATION**

Planning Committee are recommended to refuse planning permission for the reasons listed in the report.

**DETAILS OF THE DEVELOPMENT**

The application seeks retrospective planning permission for the erection of a fence to the front garden of the application site.

**THE SITE AND ITS LOCATION**

The application relates to 2 Satchwell Place, one of four Grade II listed three storey properties located to the south of New Street and east of George Street. The site is accessed from a public footpath leading from New Street, through to Gordon Street and Russell Terrace. There is no access to the rear of the site which sits adjacent to the Community Centre and burial ground. The application site is located within the Conservation Area.

**RELEVANT PLANNING HISTORY**

There is no relevant planning history relating to this site.

**RELEVANT POLICIES**

- National Planning Policy Framework

The Current Local Plan

- BE1 - Layout and Design (Warwick District Local Plan 2011-2029)
- BE3 - Amenity (Warwick District Local Plan 2011-2029)
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets (Warwick District Local Plan 2011-2029)

- HE1 - Protection of Statutory Heritage Assets (Warwick District Local Plan 2011-2029)
- HE2 - Protection of Conservation Areas (Warwick District Local Plan 2011-2029)

### **SUMMARY OF REPRESENTATIONS**

**Leamington Spa Town Council:** Objection, the fencing materials are inappropriate to the setting of the Listed Building and Conservation Area. The Council would not object to a more appropriate solution.

**Councillor Quinney:** Support:

- there has been fence-panelling around the garden for many years;
- the current fencing has opened up and improved views of 2 and 3 Satchwell Place;
- the fencing protects the occupants from trespassers, needles, detritus and against anti-social behaviour, and drug use;
- the fencing does not touch the listed building;
- the tenant spoke with her landlord and the Local Authority before installing the fencing and was informed that she could install a like for like replacement;
- the tenant was not aware that planning permission was required until after the works were completed;
- installing iron railings as suggested by the Conservation Officer would be costly for the tenant;
- suggests a condition requiring the tenant to plant low-rise climbing vegetation to shield the fence or paint the concrete posts the colour of weathered wood;
- there has been no detrimental effect on the listed building or its setting;
- the proposal should be weighed against the benefits identified.

**Conservation Officer:** Objection, the fencing appears out of keeping, harming the setting of the listed building and contribution that the setting makes to the significance of the listed building, and Conservation Area.

**Public Responses: 23 Support:**

- the fencing is necessary for the safety of the tenants and to avoid anti-social behaviour, people trespassing into the application site and neighbouring properties;
- the fence has reduced the levels of anti-social behaviour within the nearby area;
- there has been a fence present for a number of years;
- the fence has improved the character of the area;
- children can now play safely in the gardens;
- the fence has not harmed the setting of the listed building;
- the fence is opposite to a public footpath, so has little impact on the character of the wider area or street scene;
- the fencing will weather reducing the impact;
- the benefits to the safety of the tenant outweigh the harm to the listed building;
- the access should be gated.

## **5 Objections:**

- the fence is harmful to the character of the Conservation Area;
- wooden posts or iron railings would be more sympathetic;
- the fence is harmful to the setting of the listed building.

**WCC Ecology:** No objection, subject to inclusion of nesting bird note.

## **ASSESSMENT**

The main issues for consideration of the application are as follows:

- Design and Impact on Heritage Assets
- Impact on Neighbouring Residential Amenity
- Ecological Impact

### Design and Impact on Heritage Assets

The National Planning Policy Framework (NPPF) places significant weight on ensuring good design which is a key aspect of sustainable development and should positively contribute towards making places better for people. The NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving character, the quality of an area and the way it functions. Furthermore, Warwick District Council's Local Plan 2011 - 2029 policy BE1 reinforces the importance of good design stipulated by the NPPF as it requires all development to respect surrounding buildings in terms of scale, height, form and massing. The Local Plan calls for development to be constructed using appropriate materials and seeks to ensure that the appearance of the development and its relationship with the surrounding built and natural environment does not detrimentally impact the character of the local area.

Section 72 of the Planning (Listed Buildings and Conservation Areas) 1990 imposes a duty when exercising planning functions to pay special attention to the desirability of preserving or enhancing the character of a Conservation Area. Section 66 of the same Act imposes a duty to have special regard to the desirability of preserving a listed building or its setting when considering whether to grant a planning permission which affects a listed building or its setting.

Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage assets, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Policy HE1 of the Local Plan states that development will not be permitted if it would lead to substantial harm to the significance of a designated heritage asset. Where the development would lead to less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the

public benefits of the proposal. The explanatory text for HE1 clarifies that in considering applications relating to Conservation Areas, the Council will require that proposals do not have a detrimental effect upon the integrity and character of the building or its setting, or the Conservation Area. Local Plan policy HE2 supports this and states that it is important that development both within and outside a conservation area, including to unlisted buildings, should not adversely affect its setting by impacting on important views and groups of buildings within and beyond the boundary.

The Town Council and 5 members of the public have objected to the fencing, as they consider it to be harmful to the setting of the listed building and Conservation Area. There have been 23 letters of support submitted in reference to the application, and Councillor Quinney supports the development.

Details from Councillor Quinney and the applicant confirm that the fence was erected last year. The occupier of the property (and applicant) took down a timber panel fence and replaced it with the existing fencing, being timber panels over concrete bases, with concrete panels. The occupier states that they were not aware that planning permission was required to replace an existing fence.

The occupier sets out that owing to high levels of crime, including drug taking and dealing, trespassing and anti-social behaviour within the public footpath which runs adjacent to the front boundary of the site, the fence is required in order to protect the occupants of the property, some of which are children. Members of the public suggest that anti-social behaviour has decreased since the installation of the fence and that the fencing does not harm the setting of the listed building or Conservation Area.

The Conservation Officer has objected to the fencing. He notes that the Georgian terraces are some of the earliest within Leamington Spa, dating from 1807. The fencing directly affects the setting of the listed building which has to be given great weight in accordance with national and local planning policies. The Conservation Officer considers that the fencing is harmful to the setting of the listed building and group-value of the wider terrace. The historic boundary treatment would have most likely been cast metal railings, however, the installed fencing is more akin to modern suburban back garden boundary treatments. Therefore, the fencing is considered to appear wholly out of keeping within this context, being harmful to both the listed buildings, Conservation Area and character of the wider area.

It is recognised that 1 Satchwell Place benefits from panel fencing which is partly obscured by well-established vegetation. However, this fencing is unauthorised. It is likely that this fencing is more than 4 years old, and therefore now lawful, however, as it attaches to the listed building, the development is not immune from enforcement action on the basis that it has been erected without listed building consent, should the Council wish to pursue this. Notwithstanding the fencing already installed at 1 Satchwell Place, the modern nature of the installed fencing at 2 Satchwell Place appears incongruous and a harsh contrast in comparison to the backdrop of the traditional listed buildings.

It is suggested that the installed fencing does not touch the listed building. However, when Officers visited the site, the fencing appears to do so. Officers have therefore recommended that the applicant also submits an application for listed building consent which has been forthcoming.

The harm identified is considered to be less than substantial, and the NPPF states that where the harm is less than substantial to the heritage asset, it should be weighed against the public benefits. Support for the fencing has suggested that it is not harmful to the setting, however, as detailed above, this is not considered to be the case. It is proposed that the fencing is required to protect the occupants from trespassers, needles, detritus and against anti-social behaviour, drug use and dealing. Supporters of the application also note that there has been a fence in the same position for many years prior to the applicant replacing it. There has been photographic evidence presented by the applicant to support this. However, there is no planning history for the erection of fencing for any of the properties along Satchwell Place, so the previously installed fencing would have been unauthorised.

The Conservation Officer has suggested that the installation of iron railings instead of the proposed fencing would be supported, as this is a more appropriate boundary treatment, which would not detract from the setting of the Conservation Area or listed buildings. It has been noted by Councillor Quinney that this would be very costly for the applicant and that painting the fence, or allowing planting to screen the fencing would be a more appropriate solution. However, painting the fence posts to appear as wooden posts would still lead to the fencing significantly detracting from the setting of the listed buildings. The harsh, modern nature of the fencing is at odds with the character of the properties, and repainting any part of it would not detract from this. Furthermore, the Council would have no control over planting, and the fact that the fencing requires screening highlights its harmful and inappropriate nature.

Although it is suggested by members of the public and a local councillor that the fencing does not have a detrimental impact on the setting of the listed building and Conservation Area, Officers take a different view.

Officers have very carefully considered the reasons that the fencing was erected and the subsequent planning application submitted. The need to ensure that families, including children, can live within a safe environment is, of course very important and has been given significant weight in the consideration of this application particularly within the context of the circumstances that the applicant describes in the surrounding area.

However, the key test from a heritage perspective is whether those considerations, as important as they undoubtedly are, outweigh the concerns regarding the design and appearance of the fencing and resulting significant, albeit less than substantial harm to the setting of the listed building and character and appearance of the Conservation Area which results.

Officers consider that the public benefits of the proposal, whilst important, are not sufficient to outweigh the very considerable harm that would result to the listed building and to the character and appearance of the Conservation Area.

In coming to this view, Officers have taken into account the uncharacteristic appearance of the fencing in question within the context of this row of Grade II listed buildings and the resulting impact in heritage terms, particularly when other design solutions are available which would offer the same public benefits and also be acceptable in heritage terms. The fencing is considered to cause harm by virtue of a modern and historically inappropriate design which is at odds with the traditional character of the properties and wider Conservation Area. The harm identified is considered to be substantial, albeit less than substantial.

Whilst the applicant has identified clear benefits arising from the proposal these are not considered to outweigh the harm caused. It is therefore considered that the fencing is contrary to Local Plan policies, BE1, HE1 and HE2, and the NPPF.

#### Impact on Neighbouring Residential Amenity

Warwick District Local Plan policy BE3 requires all development to have an acceptable impact on the amenity of nearby users or residents and to provide acceptable standards of amenity for future users or occupiers of the development. There is a responsibility for development not to cause undue disturbance or intrusion for nearby users in the form of loss of privacy, loss of daylight, or create visual intrusion.

The fencing is low level in the majority and is not considered to cause harm to neighbouring residential amenity. It is also noted that there have been no objections to the proposal on residential amenity grounds.

The development is therefore considered to comply with Local Plan policy BE3.

#### Ecological Impact

WCC Ecology have commented on the application and note that if vegetation is to be removed, then a nesting bird note should be included. However, the development has already been carried out and the removal of low level vegetation would not have required planning permission. There have been no trees removed as part of the installation of the fence. Therefore, the application is considered to be in accordance with Local Plan policy NE2.

#### Other Matters

Members of the public suggest that the public footpath should be gated. However, this cannot be controlled as part of this planning application.

#### **Conclusion**

The development is considered to be out of keeping and harmful to the character of the area. Furthermore, the fencing is considered to cause harm to the setting

of the listed building and Conservation Area. The harm is considered to be less than substantial, however, there are considered to be no public benefits to the scheme which would outweigh the harm caused. The proposal is therefore considered to be contrary to the NPPF and Local Plan policies BE1, HE1 and HE2, and should therefore be refused.

**REFUSAL REASONS**

The proposed development by reason of its positioning around the front curtilage of one of a group of Grade II Listed properties within the Leamington Spa Conservation Area along with its stark and modern design would be harmful to the setting of those Listed properties and fail to preserve and enhance the character of that Conservation Area.

There are no public benefits arising from the proposal which are sufficient to outweigh that less than substantial harm and the proposals are therefore contrary to the National Planning Policy Framework and to the following Local Plan policies:-

The Warwick District Local Plan 2011-2029

- Policy BE1: Layout and Design
- Policy HE1: Designated Heritage Assets and their Setting
- Policy HE2: Conservation Areas

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