

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)**

ENFORCEMENT NOTICE

ISSUED BY: STRATFORD-ON-AVON DISTRICT COUNCIL ("the Council")

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act; at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and enclosures to which it refers contain important additional information.

2. **THE LAND AFFECTED**

Land at River Cottage, Tiddington Road, Stratford-upon-Avon, Warwickshire, CV37 7AE ("the Land") edged red on the attached plan ("the Plan").

3. **THE BREACH OF PLANNING CONTROL ALLEGED**

Without planning permission the erection of a 0.8 m stained wooden fence above an existing wall which cumulatively is 1.8m in height and the erection of a stained wooden sliding gate 1.8m in height (when measured from the public highway) both adjacent to a highway used by vehicular traffic.

4. **REASONS FOR ISSUING AN ENFORCEMENT NOTICE**

It appears to the District Planning Authority that the above breach of planning control has occurred within the last 4 years.

1. The unauthorised fence and gate by reason of its height, materials and finish is considered to introduce an adverse impact on the character experienced within the 'locality' of the site. The fence and gates lie within a prominent location which is visible from the public highway and fail to respect the open character of the 'locality' of the site. The unauthorised development is therefore contrary to Policy CS.9 of the Stratford-on-Avon Core Strategy (2011-2031) and Policy BE2 of the Stratford-on-Avon Neighbourhood Development Plan (2011-2031).

2. The unauthorised fence and gate by reason of its height, position and design form a prominent feature which harmfully detracts from the open character experienced within this part of the Stratford upon Avon Conservation Area. The unauthorised development is considered to introduce 'less than substantial harm' to the setting and the special interest of the Conservation Area which is not outweighed by any public benefits contrary to Policy CS.8 of the Stratford-on-Avon Core Strategy (2011-2031) and Policy BE8 of the Stratford-on-Avon Neighbourhood Development Plan (2011-2031)

The District Council does not consider that planning permission should be granted because planning conditions could not overcome the objections to the development.

5. WHAT YOU ARE REQUIRED TO DO

- a) Remove the fence which has been erected above the existing wall and gates along the alignment of A-B (as shown on the Plan) from the Land.

Or

- b) Remove the fence which has been erected above the existing wall and reduce the height of the sliding gate to no more than 1 metre in height as identified along the alignment of A-B (as shown on the Plan) from the Land.

AND

- c) Remove all the materials associated with points a) and b) above.

6. TIME FOR COMPLIANCE

- a) Within 3 months from the date this Notice takes effect
- b) Within 3 months from the date this Notice takes effect
- c) Within 3 months from the date this Notice takes effect

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on **10 June 2019** unless an appeal is made against it beforehand.

Dated: 2 MAY 2019

Signed.....

Clare Eynon - Planning Manager
(Performance, Appeals & Enforcement)

On behalf of:-
Stratford-on-Avon District Council
Elizabeth House
Church Street
STRATFORD-UPON-AVON
Warwickshire, CV37 6HX



Legend

17/00392/HHENF

River Cottage, Tiddington Road, Stratford upon Avon

Scale 1:1,250



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Ordnance Survey 100024287



ANNEX

YOUR RIGHT OF APPEAL

If you decide that you want to appeal against the enforcement notice you must ensure that you send your appeal soon enough so that normally it will be delivered by post/electronic transmission to the Secretary of State (at The Planning Inspectorate) before **10 June 2019**.

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds:-

(a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;

(b) that those matters have not occurred;

(c) that those matters (if they occurred) do not constitute a breach of planning control;

(d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;

(e) that copies of the enforcement notice were not served as required by section 172;

(f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;

(g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Not all of these grounds may be relevant to you.

If you appeal under Ground (a) of Section 174(2) of the Town and Country Planning Act 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee of £412 for the deemed application. You should pay the full amount of the fee to the Council (made payable to Stratford-on-Avon District Council).

If you decide to appeal, when you submit it, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you should state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days.

If you submit a retrospective planning application after the enforcement notice is issued, the Local Planning Authority may decline to determine your application under section 70C of the Act (as amended). You cannot appeal against a decision to decline to determine your planning application. Therefore if the Local Planning Authority does decline any retrospective application the only way you could ask for the planning merits of the alleged development to be considered is to appeal on ground (a) on your enforcement appeal and pay the fee.

However if you (or anyone else) had already submitted a retrospective planning application and the enforcement notice is issued before the time to decide the application has expired, no-one can appeal against the enforcement notice on ground (a). Although a planning appeal can be pursued if the Local Planning Authority refuse or fail to determine the planning application. This is specified at section 174 (2A)(b) of the Act (as amended).

The Planning Inspectorate has published new guidance on how to Appeal against an Enforcement Notice. It relates to all Notices served on or after 6 April 2012.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on **10 June 2019** and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

LIST OF NAMES AND ADDRESSES OF THE PERSONS ON WHOM A COPY OF THE ENFORCEMENT NOTICE HAS BEEN SERVED:

Mr R McLachlan
River Cottage
Tiddington Road
Stratford-upon-Avon
Warwickshire
CV37 7AE

