



Appeal Decision

Site Visit made on 6 July 2021

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 28 July 2021

Appeal Ref: APP/M4320/W/21/3272332

Land to the rear of 61 Gardner Road, Formby, Merseyside L37 8DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Matthew Edwardson against the decision of Sefton Metropolitan Borough Council.
- The application Ref DC/2020/02046, dated 5 October 2020, was refused by notice dated 5 February 2021.
- The development proposed is described as 'We need a change of use for the land to the rear of 61 Gardner Road from local amenity to garden use. We are purchasing the land from the Souini Group and need change of use to complete the sale. We will erect a 6ft wooden fence to complete the boundary.'

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of the proposed development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development proposed is the change of use of land from amenity space to a private garden, and the erection of an approximately 1.8 metre high concrete post and timber panel fence. I have dealt with the appeal on this basis as it more accurately describes the proposal.
3. The application form also states that the site address is 61 Gardner Road, however the Council's decision notice refers to the location of development as 'land to the rear of 61 Gardner Road'. I have used the Council's site address in the banner heading above as it is also more accurate.
4. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. The content of the revised Framework has been considered but in light of the facts in this case it does not alter my conclusion.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

6. The appeal relates to a roughly rectangular shaped piece of open green land directly to the rear of 61 Gardner Road's back garden. It is part of an area of open space comprising amenity grassland and trees to the side of a pedestrian footpath named Mittens Lane. This footpath connects Gardner Road with other residential streets including Smithy Green and Watchyard Lane.

7. Long stretches of Mittens Lane have relatively narrow grass verges to either side of it, however these open up to form a larger area of grassland around and within a looped section of this footpath, to the rear of No 61. Although the appellant has informed me that this arrangement was a result of the presence of oil tanks rather than any planned provision, I consider this area of open space to provide an important green corridor and soft visual break in the built-up development. I note that, on a plain reading, Local Plan policy NH5 relates to all forms of open space, rather than that which is formally designated or identified as such.
8. I acknowledge that the proposed concrete post and timber fence would be similar in height and design to boundary treatments elsewhere in the area and that it would align with existing fence lines to the rear of the neighbouring properties at 63-71 Gardner Road. I am also aware that the appeal site only forms a relatively modest portion of this larger area of open space and that a mature sycamore tree is proposed to be retained.
9. Nonetheless, the proposal would result in an increased sense of enclosure beyond the rear of the property. The likely introduction of domestic paraphernalia associated with the change of use to garden land, would inevitably alter its character and significantly reduce the openness of this area of amenity grassland. Consequently, the large extent of fencing, likely associated domestic paraphernalia and the encroachment into the open space would be visually obtrusive when viewed from Mittens Lane and from the rear windows of neighbouring properties on Gardner Road, Smithy Green and Watchyard Lane.
10. I note the appellant's willingness to accept planning conditions for the protection of the tree roots during the works to erect the proposed fencing and for further details of the design and appearance of the proposed fence to be submitted to the Council for its approval. However, these would not provide sufficient mitigation measures to overcome the harm that I have identified above.
11. I therefore find that the proposed change of use and subsequent loss of an area of open space would significantly harm the character and appearance of the area. As such it conflicts with Policies EQ1, EQ2 and NH5 of A Local Plan for Sefton (2017) and Policy ESD2 of the Formby & Little Altcar Neighbourhood Development Plan 2012 to 2030. These collectively seek, amongst other matters, for development to positively contribute to local character, protect open space and retain and enhance important landscaped features.

Other Matters

12. The Council has provided little conclusive evidence to substantiate how the proposed development would lead to a less safe environment. Conversely, I am mindful that the proposed fencing would remove the relatively deep and secluded 'blind corner' to the western side of the fence line of No 63 and would prevent access to the rear garden area of No 61. Whilst the proposal would also create a blind spot to the side of its western fence line, this would be sited further away from the footpath, which curves away at this point, than the existing blind spot and would thereby provide greater separation between it and the users of Mittens Lane.

13. Nonetheless, whilst I note the appellant's household's experience in respect of an intruder, it has not been substantiated that the proposal is the only practical means of ensuring the immediate security of the area or safety of the users of the footpath. These factors therefore limit the weight that I can attribute to this matter in favour of the proposed scheme.
14. I also note the appellant's dissatisfaction in respect of the delegated planning officer report's coverage of local resident's representations. Nevertheless, this matter has not had any bearing on my decision as I have only had regard to the planning merits of the proposal that is before me.

Conclusion

15. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should therefore be dismissed.

Mark Caine

INSPECTOR