



Appeal Decision

Site visit made on 29 January 2022

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 08 February 2022

Appeal Ref: APP/Z4310/C/21/3284944

9 Nightingale Road, Liverpool L12 0QF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Kevin Duffy against an enforcement notice issued by Liverpool City Council.
- The enforcement notice was issued on 1 October 2021.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a boundary fence to the side of the property, alongside Greenfinch Close.
- The requirements of the notice are to remove, in its entirety, the fence alongside Greenfinch Close and fronting onto Nightingale Road and between the gardens of 9 Nightingale Road and no 1 Greenfinch Close; between points A and B as shown on attached plan no 1, including all concrete posts, timber panels and concrete panels including the backfilling of any holes to ground level.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the 1990 Act as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Preliminary Matter

1. A boundary fence has been erected at the above property to enclose part of the side garden and the whole of the rear garden. The allegation set out in the enforcement notice targets that part of the fence "to the side of the property, alongside Greenfinch Close". The fence between the gardens of No 9 Nightingale Road and No 1 Greenfinch Close is not included in the allegation, nor is the part of the fence that faces towards Nightingale Road, despite these sections being included in the requirements for removal. Consequently, the requirements go further than the allegation, which is incorrect. Moreover, they refer to plan no 1, which was not attached with the notice received by the appellant and adds to the ambiguity. As such, a correction to the requirements would be required to address this disparity. However, as I am quashing the notice, it is not necessary for me to correct the requirements in this instance.

Background and Main Issue

2. The terms of the deemed planning application are derived from the allegation. Hence, planning permission is sought for the erection of a boundary fence to the side of the property alongside Greenfinch Close.
3. The main issue is the effect of the fence on the character and appearance of the area.

Reasons

4. The appeal relates to a detached house, which is located on a corner plot at the entrance to a cul-de-sac. The surrounding housing development has an open plan layout, although I saw that relatively high boundary fences are a feature of the wider area. In addition, the house on the opposite corner has an area of overgrown landscaping between its side fence and the road.
5. The fence subject to this appeal, that is the section that runs alongside Greenfinch Close, is constructed from close boarded timber panels, set between concrete posts and base panels. Its height is approximately 1.3 metres. A laurel hedge has been planted behind the fence, which is now well-established.
6. The fence is constructed from good quality materials that are not out-of-place in a residential setting. It is well-built and is not overly high. The landscaping that has been planted has a softening effect and serves to enhance the appearance of the structure. The fence runs alongside the road with only a narrow refuge for pedestrians. However, the overgrown landscaping opposite encroaches onto the carriageway and its impact is not dissimilar in terms of reducing openness.
7. I note that there was a previous appeal for a fence at the property¹. It is apparent that this fence was higher and sited closer to the carriageway. As such, I am satisfied that a contrary decision is justified.
8. Overall, I do not consider that the side fence is an incongruous feature that adversely affects the character of the street scene nor the wider area due to its size and proportions, its materials and the associated landscaping. The development accords with saved Policy HD18 of the Council's Unitary Development Plan 2002, which seeks to ensure development is of a high quality design that relates well to its locality.

Conclusion

9. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice.

Formal Decision

10. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a boundary fence to the side of the property, alongside Greenfinch Close at 9 Nightingale Road, Liverpool L12 0QF as shown on the plan attached to the notice.

Debbie Moore

Inspector

¹ Ref APP/Z4310/D/18/3219347.