

Appeal Decision

Site visit made on 6 July 2023

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 31 July 2023

Appeal ref: APP/W4325/D/23/3321032

236 Irby Road, Irby, Wirral CH61 2XG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal of planning permission.
 - The appeal is made by Mark Oakley against the decision of Wirral Metropolitan Borough Council.
 - The application, ref. APP/21/02349, dated 10 December 2021, was refused by a notice dated 15 February 2023.
 - The development is the retention of a 2.5m high timber gate and a 14.37m long, 2.4m to 2.9m high, including 0.4m high trellis, timber fence on, and adjacent to the northern common boundary.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal boundary fence to No. 236 Irby Road has been erected. The application for its retention was submitted retrospectively. I have dealt with the appeal on that basis, (s.73A of the Act).
3. The planning application described the fence project at No. 236 as: "*New 2.4m high timber fence + 0.4m Open Trellis to south boundary following partial removal of hedge.*". In fact, the fence is on the northern boundary of No. 236. That is an inconsequential slip. More significantly, submitted drawing 566.001 Rev. A, dated 14/02/2023, for 'Proposed Elevation of Hedgerow & Fence facing 238' shows a fence some 18m long. Drawing 566.000, dated 16/03/2022, shows a new shiplap fence as '*8500 Extent of new fence*'. That appeared to be an indication of only the extent of the new fence alongside the boundary between Nos. 236 and 238.
4. In dealing with the application, the Council described the development for which planning permission is sought as: *The development proposed is for the retention of a 2.5m high timber gate and a 14.37m long, 2.4m to 2.9m high, including 0.4m high trellis, timber fence on, and adjacent the northern common boundary* – as set out in the heading above. This description recognises that the new fence is partly on the boundary between the 2 dwellings with the remainder being set into the garden of No. 236 some 1m from the boundary.

Main issue

5. The main issue is the effect of the appeal fence on the amenity enjoyed by the occupants of the neighbouring property, No. 238 Irby Road.

Considerations

6. At the time of my site inspection, the fence was mostly hidden to views from the rear garden of No. 238 by an evergreen hedge along the garden boundary that had grown to the same height. It appears this hedge has varied from about 2.1m high to its present height of almost 3m.
7. The occupier of No. 238 said: "*... the existing hedge is maintained to a height of 2.4 metres, sufficient height to shield both detached bungalow properties (with no rear dormers) from overlooking and therefore providing adequate privacy.*".
8. When I was there, I saw that the appeal fence was hidden to views from the garden of No. 238. But it would be seen if he were to reduce the height of his hedge to 2.4m. As it is, the height of the appeal fence is such that sunlight available to the rear garden of No. 238 is likely to be significantly reduced. At the height of almost 3m high it also generates an uncomfortable hemmed in feeling.
9. The General Permitted Development Order at Schedule 2, Part 2, Class A allows for the erection of a fence up to a height of 2m, (limitation A.1(b)). That is an indication such a maximum height is generally appropriate to domestic boundaries that do not front a highway. Where planning permission is sought for a much higher domestic fence, it should only be granted if, amongst other matters, that fence does not materially harm the amenities enjoyed by neighbours. In this instance, the rear garden of each dwelling is small, where a tall boundary is more likely to cause overshadowing and a cramped feeling to those in the garden.
10. In my view, the current high fence along the rear garden boundary between Nos. 236 and 238 Irby Road is unacceptably high. Planning permission should not be granted for its retention.

Conclusion

11. For the reasons outlined above, the appeal is dismissed.

John Whalley

INSPECTOR