
Appeal Decision

Site visit made on 10 September 2023

by Elaine Benson BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2023

Appeal Ref: APP/W4325/D/23/3324622

7 Lydiate Farm, The Lydiate, Heswall, Wirral CH60 8QN

- 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 Ms Bowen against the decision of Wirral Council.
 - The application Ref APPH/23/00373, dated 10 March 2023, was refused by notice dated 5 May 2023.
 - The development proposed is described as 'retrospective approval for fencing around perimeter of rear garden. Average 1.9m high timber fencing panels with timber posts'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The development set out above has already been carried out. The main issue is whether the fencing preserves or enhances the character or appearance and significance of the Heswall Lower Village Conservation Area (CA).

Reasons

3. The appeal site is within the CA and is the subject of an Article 4 Direction. The appeal property (No 7) is designated as a 'Category B' building in the 'Heswall Lower Village Conservation Area Management Plan' (CAMP). These buildings contribute positively to the character of the conservation area where their original character is still prominent. The CAMP also identifies boundary walls and stone gate piers as important to the character of Heswall Lower Village.
4. The height and material of the 1.9m high timber fencing is typical of residential boundary treatments, particularly in suburban areas. However, such fencing is not common within the Lydiate Farm complex of which No 7 forms part, nor within the wider CA where the context can be characterised as predominantly containing sandstone walls and mature hedges.
5. Whilst the rear elevation of No 7 is not designated as a key view, it sits in a prominent location within the CA and has a high level of visibility due to the elevated ground level and open character of the site's surroundings. The appeal fencing is highly visible in views towards the north and northeast along The Lydiate and is prominent when entering the Lydiate Farm complex. The fencing is an imposing and incongruous feature in this context.
6. The fence is required to improve the safety and privacy of the occupiers of No 7 as the rear garden was formerly open. Additionally, the development of new

dwelling to the rear of No 7 included a lane which is at a lower level than the adjoining garden. This is bounded by an unguarded brick retaining wall. The fencing provides a safer play environment for visiting children and more privacy from public areas and neighbouring homes. Aspects of The Human Rights Act are referred to by the appellant.

7. Whilst the safety and welfare of children is of paramount importance, evidence with this appeal indicates that other types of boundary treatments could meet all necessary safety and privacy requirements whilst also respecting the historic context of No 7 and the locality. Furthermore, the appellant's evidence states that a rear hedge was removed to join the existing garden with additional land bought by the appellant. Retention of this hedge could have preserved safety and privacy whilst the treatment of the wider site boundary was considered.
8. There are some fences in the area around the appeal site. However, these are either at low level and/or are within a different context. I saw none in a similar open or historic context and no examples of fencing were as extensive as the appeal proposal. Other fences illustrate the visual harm to a CA that can arise from their inappropriate use. The site's CA location and the Article 4 Direction limit permitted development rights. Accordingly, representations relating to what might otherwise constitute permitted development can be given very little weight.
9. Taking all other matters into consideration, including objections to the proposal from the Heswall Society, the Wirral Society and neighbouring occupiers, I conclude that the siting, scale and design of the fence fails to preserve or enhance the character and appearance of the CA and this amounts to less than substantial harm. The suggested planting and hedging around the retained fencing would not sufficiently address these concerns. Notwithstanding this conclusion, I am not convinced by the Council's evidence that the proposal unbalances the rear elevation of No 7 or the relationship between it and No 6.
10. For the foregoing reasons, the proposal is contrary to Policies CH2 and CH14 of the Wirral Unitary Development Plan, SPG28 and the CAMP which collectively and in summary require high quality design and detailing that enhances the positive qualities of the Conservation Area. There is also conflict with the similar policy objectives of the emerging Wirral Local Plan of which I consider Policies WD 5, W2 2.2 and WP 7.1 to be of most relevance to this appeal. The emerging plan has been submitted for examination and is a material consideration and can be afforded weight in the appeal. The proposal also fails to comply with the core principle of the National Planning Policy Framework to conserve heritage assets in a manner appropriate to their significance. This adds weight to my conclusion.
11. Accordingly, the appeal is dismissed.

Elaine Benson

INSPECTOR