



Appeal Decision

Site visit made on 11 September 2023

by Elaine Benson BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2023

Appeal Ref: APP/Z4310/D/23/3322273

Cedar House, Fulwood Park, Liverpool L17 5AG

- 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 Steven Johnson against the decision of Liverpool City Council.
 - The application Ref 22H/2312, dated 23 August 2022, was refused by notice dated 14 March 2023.
 - The development proposed is described as 'retrospective application to replace existing 6ft high timber fence which was damaged in parts with a 4ft fence on the perimeter wall'.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are the effect of the fence on the living conditions of the occupiers of properties on Amphill Road which back on to the appeal site; and secondly, whether the proposed development would preserve or enhance the character, appearance or significance of the Fulwood Park Conservation Area.

Reasons

3. The appeal site contains a detached bungalow situated on a spacious plot within the Fulwood Park Conservation Area. It is enclosed by a 3.6m tall boundary wall which extends around the rear of several properties in Fulwood Park. The wall forms one of the walls of an alleyway running between the appeal site and the narrow, terraced houses on Amphill Road. On the top of the wall is a 1.2m high mesh panel fence with artificial foliage which is the subject of this appeal.

Living Conditions

4. The houses at 87-97 Amphill Road stand at the rear of the appellant's wall. They have short and narrow back gardens. Their back garden wall is the other side of the alleyway and is significantly lower. The appellant's wall is a longstanding structure; however, the appeal proposal introduces further height to this boundary. Their combined height extends well above the garden wall of the terrace.
5. The mesh fence causes a significant additional loss of sunlight and overshadowing to the rear gardens of the Amphill Road properties, notwithstanding that there is some permeability. The boundary wall and mesh fence are only 4.4m and 11m from the rear bedrooms of the terraced

properties. This is significantly less than the minimum separation distance of 15m between habitable windows and walls that Supplementary Planning Guidance (SPG) 10 requires. Given its proximity, the mesh fence also has an overbearing effect on the ground floor windows and the small gardens. The proposal therefore harms the living conditions of neighbouring occupiers.

6. The mesh fence replaced a taller, damaged timber fence that was on top of the boundary wall. However, the previous fence did not have planning permission and can be given little weight in this decision. The neighbouring property 'The Orchid' has longstanding 1996 planning permission for a timber fence situated on the wall. Only 1 panel was in place at the time of the appeal site visit, along with a number of timber supporting posts. However, this fencing was approved under previous Council policies and can be given little weight.
7. I conclude that the fence, by virtue of its location on top of the 3.6m high wall, has an overbearing appearance and causes overshadowing and loss of light to the adjacent properties on Amphthill Road. This harm to neighbouring living conditions is contrary to the aims of Policy H8 of the Liverpool Local Plan 2013-2033 (LLP) in respect of its objective to protect living conditions from overbearing or over dominant development, and the similar aims of SPG 1 and SPG 10.

Conservation Area

8. I have given special attention to the desirability of preserving or enhancing the character or appearance of the Fulwood Park Conservation Area, including its setting and significance.
9. I concur with the Council that the location of the wall and the context of the site mean that it is not visible from Fulwood Park. It forms a rear boundary of an enclosed private garden. The wall topped by the mesh fence with artificial foliage is not a traditional boundary treatment. However, there is no dispute that the impact upon the character and appearance of the Fulwood Park Conservation Area would be neutral. The proposal would preserve the character and appearance of the Conservation Area and therefore complies with LLP conservation Policies H8, UD1 and UD1 in this regard.

Elaine Benson

INSPECTOR