



Appeal Decision

Site visit made on 5 November 2024

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 22 November 2024

Appeal Ref: APP/Q9495/D/24/3344960

4 Browfoot, Keswick, Cumbria CA12 4LQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Ian Moore against the decision of Lake District National Park Authority.
- The application Ref is 7/2024/2016.
- The development proposed is erection of a privacy fence between 4 Browfoot and Glenburn.

Decision

1. The appeal is allowed and planning permission is granted for erection of a privacy fence between 4 Browfoot and Glenburn at 4 Browfoot, Keswick, Cumbria CA12 4LQ in accordance with the terms of the application, Ref 7/2024/2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing Refs: Location Plan, received 15 Feb 2024; Proposed elevations, received 19 March 2024; Proposed block plan, received 19 March 2024.

Main Issues

2. The main issues are the effects of the proposal on:
 - i) The character and appearance of the area; and
 - ii) The living conditions of the neighbouring residential occupiers.

Reasons

Character and appearance

3. No 4 forms part of a row of 2-storey semi-detached dwellings to the south of Penrith Road. Properties are deeply set back from the street behind frontages enclosed by low stone walls. Off-street parking is provided by means of side driveways leading to garages and frontage parking. The hard built environment is softened by garden planting. Notwithstanding variation between properties, the street scene has a harmonious character and appearance unified in part by the similar palette of external materials and the stone boundary walls.
4. The proposed fence would comprise wooden fence panels on top of concrete gravel boards. It would extend forward from the garage to the rear of No 4 and it would finish roughly in line with the front elevation of the neighbouring property, Glenburn. The fence would be constructed on the appeal property side of the boundary wall that separates the neighbouring properties.

5. The 2.5m high fence would be taller than the existing wall. However, while the fence would be fully visible from the No 4 side, slightly less than 1m would be visible above the wall on the Glenburn side. The fence would obscure a length of wall on the No 4 side, but the other side of the wall would remain visible. As the fence would not be forward of the front elevation of Glenburn, the proposal would preserve the openness and the stone walls of the frontages, which contribute positively to the character and appearance of the area. Moreover, by virtue of its siting, the fence would be screened in views along the road by the dwellings to either side and the vegetated frontages of neighbouring properties.
6. The proposal would result in a localised visual change. However, the fence would not be prominent in the street scene. Moreover, while front boundaries are typically formed by stone walls or hedging, the treatment of side boundaries varies and does include fencing. The proposal would not be out of character in this context and it would not detract from local distinctiveness or sense of place.
7. Therefore, I conclude that the proposal would not harm the character and appearance of the area. It would accord with policy 06 of the Lake District National Park Local Plan 2020-2035 Adopted May 2021 (the LP), which requires, among other things, that proposals reinforce local character.

Living conditions

8. Penrith Road slopes down towards the town, with the result that Glenburn is at a higher ground level than No 4. The side elevation of No 4 is set back from the shared boundary by the width of a driveway. However, the side extension to Glenburn approaches the boundary more closely such that side windows and the path to the side of the property are in close proximity to No 4.
9. The fence would be about 2.5m tall from the No 4 side but, taking into account the change in ground levels, it would be some 70cm lower on the Glenburn side. Moreover, it would only be about 94cm taller than the existing wall. Notwithstanding this relatively low increase in the height of the boundary, the fence would be around 2m from the side extension to Glenburn and therefore it would be a noticeable change to the neighbouring occupier.
10. The fence would finish roughly half way up the ground floor side window in the extension to Glenburn, which is used as a dining room. Although close to the window, the fence would still allow for natural light to enter the habitable room. Moreover, as the 2-storey bulk of No 4 is already to the west of Glenburn, the fence would be unlikely to result in any further loss of low winter sunshine to the dining room window.
11. The dining room side window is fitted with clear textured glass, which is not obscure privacy glazing and only slightly distorts views. In contrast, the fence would prevent overlooking between the neighbouring properties and it would obstruct views across the frontage of No 4. I understand that the neighbour would feel hemmed in by the fence, and the Council ultimately found that it would result in a feeling of enclosure and overbearing to Glenburn. In this regard, there would be a loss of views from the side window, exacerbated by the fall of the land along the road. However, the dining room is also served by a front-facing window, an internal part-glazed door to the rear and it is open to the kitchen of Glenburn. Consequently, while the fence would be visible from the side window, it would not be unduly overbearing nor would it enclose the

dining room. The proposal would not result in a poor standard of residential amenity for the neighbouring occupier.

12. While the kitchen of Glenburn does borrow light from the dining room, it is served by its own windows and there is little evidence that the fence would significantly reduce natural light levels in the kitchen. The fence would enclose the path to the side of Glenburn, but this is an access to the rear of the property and the fence arrangement would not be unusual in this regard.
13. I note that the height of the fence on the Glenburn side would be 20cm lower than could be constructed under permitted development (PD) rights if the neighbouring properties were at the same ground level. The theoretical exercise of PD rights does not constitute a fall back position. However, it does suggest the proposed arrangement insofar as it would affect Glenburn would not necessarily be considered unusual or prejudicial to residential amenity.
14. Therefore, I conclude that the proposal would not harm the living conditions of the neighbouring residential occupier of Glenburn, with particular regard to enclosure and an overbearing form of development. It would accord with LP policy 06 which requires, among other things, that proposals avoid unacceptable impacts on the amenity of adjoining residents through visual intrusion, overshadowing or overbearing.

Other Matters

15. The Town Council and the neighbouring occupier both object to the proposal and dispute that the fence is necessary to protect the privacy of the appellant. I understand that the neighbour has lived at Glenburn for many years and she is content with the existing arrangement. However, the proximity and elevation of Glenburn does allow close and unobstructed views towards No 4, including its side habitable room window. Moreover, persons on the path to the side of Glenburn will be both close and elevated above the occupiers of No 4, resulting in an awkward relationship between the neighbours.
16. I note that the existing wall is a corridor and habitat for small mammals and birds, and ferns grow on it. The fence would obscure a length of the wall on the appeal property side, but this would not hinder the movement of wildlife through the area nor result in any significant loss of biodiversity.

Conditions

17. The Council suggests planning conditions in the event the appeal was allowed. I have considered these against the relevant tests set out in the National Planning Policy Framework. In addition to the standard time limit condition, I have imposed a condition specifying the approved plans in the interests of certainty.

Conclusion

18. For the reasons set out above, I conclude that the appeal should be allowed.

Sarah Manchester

INSPECTOR