



Appeal Decision

Site visit made on 12 August 2025

by Ann Veevers BA(Hons) PGDip(BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 September 2025

Appeal Ref: APP/Z4310/D/24/3358076

East House, 13 Fulwood Park, Liverpool L17 5AD

- 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 Mark Lyons against the decision of Liverpool City Council.
 - The application Ref is 24H/0806.
 - The development proposed is to retain boundary treatment (with alterations) to provide a 2.17m high boundary wall with 4 no. piers (2.25m high) and sliding electric vehicle gates with separate pedestrian gate, with landscaping (resubmission of planning application ref: 22H/1659)
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the application form. Although different to that on the decision notice, no confirmation that a change was agreed has been provided.
3. East House is one of two properties within the sub-divided Grade II listed building known as Osborne House on the List Entry¹. The appellant submitted a householder planning application to the Council in respect of both planning permission and listed building consent for the proposed development and works. However, the Council determined that listed building consent was not required for the works, therefore the requirements of section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) do not fall within the scope of this appeal. Consequently, for the avoidance of doubt, I am dealing with this appeal under section 66(1) of the Act as an application for planning permission. In so doing, I have had special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
4. The appeal property is also located in a conservation area and in accordance with Section 72(1) of the Act, I have had special regard to the desirability of preserving or enhancing the character or appearance of the conservation area.
5. At the time of my site visit, the development as described in the heading above has been partially carried out insofar as the brickwork element of the boundary treatment had been constructed. For the avoidance of doubt my decision relates to the proposals shown on the submitted plans as a proposed development. The fact that some building works had commenced does not affect my decision.

¹ National Heritage List for England: List Entry Number: 1025039

Main Issues

6. The main issues are whether the proposal would preserve the Grade II listed building, known as Osborne House, or its setting or any features of special architectural or historic interest which it possesses; and whether the proposal would preserve or enhance the character or appearance of the Fulwood Park Conservation Area.

Reasons

Special interest and significance – listed building and conservation area

7. Osborne House (the House) is a large, detached Victorian villa, originally built as a single dwelling circa 1840 but now separated into two properties, East House and West House. It is a two-storey painted stucco building with a slate roof, projecting bays at each end under pediments and a first floor sill band with top entablature. The front façade features a long stair window with round-arched glazing bars. The front of the building has maintained its aesthetically pleasing Italianate architectural form and features; and although the evidence suggests there has been a single storey extension to the rear elevation, this has not unduly eroded the building's intrinsic heritage merit.
8. The House originally sat within substantial grounds which, from the appellant's 1847 tithe map and 1892-1914 OS map extracts, also include a separate elongated two-storey brick building along the northern boundary of the plot. Evidence suggests this was a former stables and coach house, although little information is before me in this regard. This building (the former coach house) is now sub-divided into separate dwellings known as The Stables and The Cottage but shares the same access and drive as the two properties at the House. Although the two vehicular access points to the House from Fulwood Park, each flanked by tall, pillared gateposts, emphasise the grandeur of the property, the southern access is gated and no longer serves the House. This access provides separate access to a relatively modern housing development constructed in part of the former grounds of the House.
9. From the evidence before me and what I observed, the special interest and significance of the House is largely derived from its high quality and intact historic fabric and its aesthetic qualities in forming an attractive architectural set piece within a planned enclave of mid-19th century estate villas.
10. Insofar as is relevant to the appeal, the building's special interest and significance is also derived, in part, from its setting and the contribution it makes to the composition and historic value of the wider area. Its immediate setting, comprising a densely vegetated garden and the former coach house, has historic, functional, physical and visual links with the asset. The vehicular access and driveway between the House and the former coach house gives some separation and allows greater appreciation of the historic fabric of the House's principal and side elevations. This is the main space where the building is experienced and contributes considerably to both its significance as an asset, as well as the ability to appreciate that significance.
11. The House is located within the Fulwood Park Conservation Area (FPCA). This is a relatively small conservation area which, from the information before me, centres around a single planned private residential cul-de-sac close to the River Mersey.

The houses that were predominantly constructed along Fulwood Park during its development circa 1840 are large, two-storey detached stucco-faced villas set within substantial grounds, reflecting the wealth and high status of the area at the time. Although individually designed, the properties display similar classical architectural detailing and stucco finishes, including continuous cornices and square columned entrances.

12. Whilst the properties are set back from the road, they are clearly apparent in public views along Fulwood Park, albeit views are filtered by hedges and trees. The presence of sandstone boundary walls, substantial sized gate pillars, mature trees, woodland and vegetation along Fulwood Park provides a spacious, cohesive and verdant appearance to the FPCA which is intrinsic to its character.
13. These characteristics are evident singly or in combination along Fulwood Park, but there is also variation along parts of the road where more recent infill residential development has occurred, and railings and gates have been introduced along some roadside boundaries. Nevertheless, the spacious, verdant character and the identifiable consistent appearance of the large Victorian villas has been retained.
14. From the evidence before me, the character, appearance and significance of the FPCA in relation to this appeal derives from the historic development pattern, the high proportion of well-preserved high quality Victorian villas with a unified palette of materials and architectural features, sandstone boundary walls and verdant spaciousness. The special interest and significance of the House contributes positively to the character and appearance of the FPCA as a whole and thereby to its significance as a designated heritage asset.

Proposal and effects

15. When directly facing the House from Fulwood Park, the existing sandstone boundary wall, trees and vegetation screen much of the House's front façade. Listed buildings are safeguarded for their inherent architectural and historic interest, irrespective of whether public views of the building or any of their curtilage structures can be gained. However, in this case, the proposal would be clearly visible in public views from the entrance to the House on Fulwood Park.
16. The proposed boundary treatment would be of considerable height, the piers almost reaching the same height as those at the main entrance to the property. As a result of its overall height, design and location, the proposed development would overwhelm and dominate views of the front and side elevations of the House. It would incongruously enclose part of the frontage of the House thereby eroding its verdant and spacious setting. It would also detract from the open space between the House and the former coach house. The use of railings along much of its length, planting between piers and the application of render would do little to break up the bulk of the overall structure. As a result, the proposed development would significantly diminish the setting within which the House is experienced.
17. Moreover, the proposed structure's overly imposing presence would be uncharacteristically dominant and detract from the historic hierarchical coherence of the House and its former subservient coach house. It would also detract from the inherent spacious and verdant character of plot frontages within the FPCA. Consequently, it would be harmful to the setting of the House and to the character of the FPCA.

18. While the use of railings is evident elsewhere in the FPCA, they are generally along roadside boundaries rather than within front gardens. The examples of other walls, fences and railings provided by the appellant do not have the same visual relationship with the host property as in this case.
19. The provision of a rendered finish to the existing side boundary wall and pier would better match the materials of the House. Nonetheless, as set out above, the proposed new wall, railings and gates would be a prominent feature that would have a harmfully erosive effect on the open aspect to the immediate frontage of the House and the former coach house, which is a key positive attribute of its setting and the character of the FPCA. Consequently, it would harm the appearance of the FPCA and diminish the integrity, setting and special interest of the House.
20. Given the above, the proposal would fail to preserve the special interest of the Grade II listed building including that derived from its setting and would fail to preserve or enhance the character or appearance of the FPCA. It would not conserve the designated heritage assets in a manner appropriate to their significance. As a result, the expectations of the Act have not been met and the proposal would harm the significance of these designated heritage assets.

Public benefits and heritage balance

21. With reference to paragraph 208 of the National Planning Policy Framework (the Framework), in finding harm to the significance of a designated heritage asset, the magnitude of that harm should be assessed. Planning Practice Guidance (PPG) requires the category of harm to be 'explicitly identified', and the extent of harm within that category to be 'clearly articulated'². The appellant suggests there would be no harm to designated heritage assets in this case. I disagree. Given the nature and extent of the proposal, I find the harm to the significance of the House and the FPCA to be at the mid-point of the scale of 'less than substantial'. Any harm is of considerable importance and weight.
22. Under such circumstances, paragraph 215 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes securing the asset's optimum viable use. The PPG is clear that public benefits should flow from the development or works. They should be of a nature and scale to be a benefit to the public at large and not just be a private benefit³.
23. There would be some economic, social, and environmental benefits resulting from the construction works and the general investment into the property. There would also be some minor heritage benefits from the rendering of the existing side wall and pier as outlined previously that would, in itself enhance the appearance of the House and preserve the character and appearance of the FPCA. However, the nature and scale of the associated public benefits that would flow from the scheme to the public at large in relation to these factors would be minimal.
24. I acknowledge the appellant's desire to improve privacy and security for his family. However, it is not unusual for front gardens in residential areas to be visible from the public realm. Although I note the presence of cameras fixed to the exterior of the former coach house and which have the potential to overlook the appeal site, it

² Paragraph: 018 Reference ID: 18a-018-20190723

³ Paragraph: 020 Reference ID: 18a-020-20190723

is inevitable where there is generally a degree of mutual overlooking between properties, that parts of the property are more visible than others. This is particularly the case at the appeal site where the former coach house shares the same driveway and sits perpendicular to, and in proximity to East House. In any event, I note that there is private outdoor space at the rear of East House.

25. Whilst the security of East House may be a personal benefit to the appellant, it is an important consideration as the Framework seeks to create places that are safe, and where crime and disorder and the fear of crime do not undermine the quality of life. Nevertheless, no substantive evidence has been provided to explain the security concerns or that the appeal proposal is the only way to achieve the appellant's security objectives.
26. The appellant appears frustrated by unmanaged parking which takes place within the shared space between the House and former coach house. He is also concerned that this is exacerbated by holiday let use and anti-social behaviour from visitors to that property including within the shared space. However, these behavioural matters are not something which the planning system is designed to address, rather, they are civil matters. Moreover, any benefits that might rise from the development in this regard would be essentially private in nature and would not outweigh the harm identified. As such, the clear and convincing justification for the proposal required by paragraph 213 of the Framework has not been provided.
27. The continued viable use of the appeal property as a residential dwelling is not dependent on the proposal as the building has an ongoing residential use that would be unlikely to cease in its absence.
28. Paragraph 212 of the Framework sets out, when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation.
29. The weight that I ascribe to the public benefits that would result from the proposal would not be sufficient to outweigh the considerable importance and weight I attach to the harm I have identified. The proposal would conflict with the statutory presumptions set out in sections 66(1) and 72(1) of the Act. There would be conflict with Policies HD1 and UD1 of the Liverpool Local Plan 2013-2033, adopted January 2022 which together require, among other things, that proposals affecting a designated heritage asset and its setting should seek to conserve the significance of the heritage asset. Further, the proposal would also not accord with the provisions of the Framework regarding achieving well designed places or the conservation and enhancement of the historic environment.

Other Matters

30. The appellant asserts that there are examples of apparently similar boundary treatment elsewhere in the FPCA that set a precedent and that at 8 Fulwood Park (no.8) the Council granted planning permission for a separate access to serve separate properties at the rear. Photographs of these examples have been provided. Nevertheless, these examples, which I observed at my site visit, are for boundary treatment located along the roadside rather than within the front gardens of the relevant properties. The separation of access drives at no.8 is delineated by landscaping rather than a solid structure. Therefore, these examples are materially different to the scheme before me. In any event, I must determine the appeal before me on its own merits.

31. I note that the proposed development is a revised scheme which seeks to overcome the Council's concerns in relation to a previous refused application⁴. However, for the reasons stated above, I consider this revised scheme to be unacceptable.
32. Even if I agreed there were no adverse effects on highways, parking, trees or the living conditions of neighbouring occupants with regard to light or outlook; or that the entrance pillars or roadside boundary wall would be unaltered, these are neutral factors rather than ones that carry positive weight in favour of the development.
33. There were no objections to the proposal from neighbours or the Fulwood Park committee. However, the absence of objections is not a reason to approve unacceptable development.

Conclusion

34. The proposed development would conflict with the Act, the development plan and the Framework. There are no material considerations which indicate that the decision should be made other than in accordance with the development plan.
35. Accordingly, for the reasons given, I conclude that the appeal should be dismissed.

Ann Veevers

INSPECTOR

⁴ LPA Ref:22H/1659