
Appeal Decision

Site visit made on 4 November 2025

by **C Evans MTCP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 December 2025

Appeal Ref: APP/Z4310/W/25/3371796 **234 Menlove Avenue, Liverpool L18 3JF**

- 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 Chris Convery against the decision of Liverpool City Council.
 - The application Ref is 23F/2477.
 - The development proposed is to erect 1 no detached dwellinghouse in rear garden of No.234 Menlove Avenue; following the demolition of existing swimming pool structure, installation of outdoor swimming pool and partial demolition of side elevation of No.234 to create new vehicular access to the rear.
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Decision

1. The appeal is allowed and planning permission is granted to erect 1 no detached dwellinghouse in rear garden of No 234 Menlove Avenue; following the demolition of existing swimming pool structure, installation of outdoor swimming pool and partial demolition of side elevation of No 234 to create new vehicular access to the rear at 234 Menlove Avenue, Liverpool L18 3JF in accordance with the terms of the application, Ref 23F/2477, and the plans submitted with it, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr Chris Convery against Liverpool City Council. This application is the subject of a separate decision.

Preliminary matters

3. There has been a previous appeal for 1 no detached dwellinghouse in the rear garden of No 234 Menlove Avenue, which was dismissed in 2023 (ref: APP/Z4310/W/22/3306489). This proposal has been amended and includes the following changes: amended footprint of the building, increased distances to existing dwellings, ground level changes, changes to the swimming pool and additional privacy screens. This previous decision is a material consideration, but I have considered this proposal based on its own merits.

Main issues

4. The main issues for this appeal are the effect that the proposed development would have on:
 - the character and appearance of the area; and
 - the living conditions of neighbouring occupiers.

Reasons

Character and appearance

5. The appeal site is the rear garden of an existing detached house, which is accessed via Menlove Avenue, the A562. The area is predominantly residential, featuring detached or semi-detached houses and a small block of flats. The site for the proposed dwelling is bordered on all sides by rear gardens of neighbouring houses. These properties front Menlove Avenue, Middlefield Road, Yewtree Road and Dowsefield Lane.
6. It is a sloped site, with higher levels closest to No 234 and the lowest towards the opposite side, closest to Dowsefield Lane. As a result, the garden currently has separate levels. The garden is significant in size, which directly contrasts with adjoining properties, where plots are smaller and regular in size and shape.
7. The area is a verdant setting, screened by mature trees. These largely screen the site from the surrounding streetscape. The scheme would not significantly alter these, and consequently there would be a limited impact on the wider character and appearance of the area. The proposal provides planting, including green walls, which would integrate the dwelling with the surrounding area, further limiting any impact on the character and appearance.
8. The proposal features a modern design for the dwelling, which would be in contrast with adjoining properties. During my site visit, I observed various viewpoints in the surrounding area. I found that the proposal would have very limited visibility from neighbouring streets, due to the backland nature and screening from current trees. Whilst it would be visible from neighbouring properties, it makes effective use of the plot size and would be an innovative addition to the area. As a result, I find no harm to the character and appearance of the area.
9. In the previous appeal referred to above, the Inspector found harm due to the proposal's relationship with the setting from the extensive cut and fill required and resultant abrupt level changes. This proposal has stepped floor levels across the building, which reduces the extent of cut and fill required. As a result, the proposal would be better integrated with the topography of the site and would be sited more appropriately in relation to neighbouring properties. The amended proposal, therefore, would overcome the previously identified harm to the character and appearance to the area on this basis.
10. For the reasons highlighted above, I conclude that the proposal would not harm the character and appearance of the area. It would comply with policies UD2, H7 and H13 of the Liverpool Local Plan 2013-2033 (Local Plan). These collectively seek to ensure that proposals maintain or enhance the character and appearance of an area through criteria including, siting, scale, density and ensuring that proposals integrate with existing site features, such as topography.

Living conditions

11. The proposed development is surrounded on all sides by existing residential properties. The proposed sub-division would result in No 234 having a sufficiently sized garden, which would be more in-line with the garden size of neighbouring properties. The proposed dwelling would also have a sufficiently sized garden. On

this basis, appropriate living conditions for both properties with regards to private amenity space would be provided.

12. The Council has drawn my attention to Supplementary Planning Guidance Note 10 New Residential Development. This recommends separation distances between dwellings to prevent harm from overlooking, a loss of privacy and a loss of daylight or sunlight. Distances are increased for sites such as this, where there are differences in ground levels between proposed and existing dwellings. The proposal is in-line with the recommended separation distances, including the additional allowances for sloped sites. Whilst this provides guidance only, it is a good indicator that the proposal would ensure privacy, daylight and outlook of neighbouring properties would not be affected to such an extent that the proposal results in harm.
13. The plans show that the two storey areas and three storey stairwell of the proposal are sited at an appropriate distance from neighbouring properties fronting Menlove Avenue, Yewtree Road and Dowsefield Lane. I was able to confirm this during my site visit. Consequently, the impact on the outlook and sense of openness for these properties is limited.
14. The three storey element will not contain any habitable rooms and would provide maintenance access only. This could be secured via a planning condition. A new boundary fence and planting would be part of the proposal, which would separate the new dwelling from neighbouring properties. This, in combination with the distances between habitable rooms, would mitigate any overlooking, daylight and privacy issues for neighbouring properties and the proposed dwelling. The harm identified by the Inspector in the previous appeal for the site in this regard, would be overcome.
15. The proposal incorporates a one storey element, with roof mounted solar panels, in the area closest to properties facing Middlefield Road. As a result of this lower height, the proposed dwelling would not appear overbearing to these properties. The impact on daylight, privacy and overlooking would be limited.
16. It is contended that the proposed rooftop areas could be used as amenity spaces and cause overlooking and noise disturbance. The appellant outlines that access would be for maintenance only, which would minimise any perceived overlooking. This can be secured through a planning condition restricting the use of these areas for maintenance only.
17. It has been put to me that the proposal would result in noise and light disturbance, which would negatively impact living conditions of neighbouring properties. Any additional noise and light from a single dwelling is unlikely to be materially different from the current use as a family garden. Noise from the swimming pool heat pump can be mitigated for via a planning condition specifying maximum permitted noise levels. Screening around the swimming pool area mitigates privacy and overlooking impacts. A condition regarding lighting would manage light levels and glare. Glare from solar panels could also be managed via a planning condition.
18. To conclude, the proposal would not harm the living conditions of neighbouring dwellings. The development is therefore compliant with Local Plan policies UD2, H7 and H13, which amongst other criteria, collectively protect the living conditions of neighbouring dwellings. These include noise, amenity, daylight, privacy, outlook and adequate space.

Other matters

19. My attention has been drawn to Local Plan Policy H13, which states that residential development will normally be resisted in residential gardens. No criteria regarding when it would be allowed are provided. This proposal accords with other policies of the Local Plan, and therefore, I do not consider it to be in conflict with Policy H13.
20. It has been put to me that the proposal would result in increased security risks due to access being created behind existing gardens. The proposal relates to a single residential dwelling and does not provide public access to the rear of existing properties. The arrangement would reflect a typical back-to-back garden context and is not considered to present a significant increased risk to security.
21. The proposal utilises the existing access point of No 234. Whilst it is in close proximity to a major junction, vehicles are only able to enter and exit the site in one direction due to the traffic management. There is little evidence before me to show that there would be any negative impact on highway safety. In the shorter term, any impact as a result of construction could be managed via a planning condition requiring a Construction Method Statement.
22. It is contended that there would be a negative impact on the local ecology and wildlife. Planning conditions regarding ecology are included to manage and mitigate any adverse impacts. Landscape conditions include a time period of 5 years to ensure that the landscaping scheme will be fully established.
23. I note concerns from neighbouring occupiers that the proposal includes inaccurate plans. I have made my assessment based on all of the evidence in front of me. This includes my site visit, where I could accurately assess the trees present and their canopies. I also note concerns regarding the lack of details on retaining structures. This could be secured by a planning condition; however, it would fail the test of being reasonable.
24. I also note concerns that granting planning permission for this scheme could result in other proposals for the site or set a precedent for backland development. This is outside of the remit of this planning appeal, and in any case, any future proposals would be subject to the planning process and would be considered on their own merits.
25. The protection of private interests, including property values are not a material consideration in the planning system.

Conditions

26. The Council has submitted a list of conditions, which I have considered. I have made some amendments to the wording, to reflect the advice contained in the National Planning Policy Framework and Planning Practice Guidance and improve precision and enforceability.
27. I have imposed a condition addressing the time period for commencement of development for legislative requirements. For certainty, I have included a condition to specify the approved drawings. Details of external materials are necessary to achieve a satisfactory appearance.

28. Two conditions regarding surface water drainage and run off are included to ensure a satisfactory means of drainage and to ensure unnecessary surface water is not deposited onto adjoining properties. The condition requiring details of the proposed surface water drainage scheme is necessarily a pre-commencement condition to ensure that a satisfactory scheme is designed at the outset before construction work starts.
29. Conditions relating to tree protection during construction, the retention of trees and landscaping are required for legislative reasons and in the interests of visual amenity.
30. To ensure satisfactory living conditions of neighbouring properties, conditions managing the noise generated from the plant, solar panel glare, restricting roof access for maintenance only, and removal of permitted development rights, including use class, are required.
31. A Construction Method Statement is required to manage highway safety and residential amenity. Again, this is necessarily a pre-commencement condition given that it needs to be in place and enforceable before any demolition or construction work begins.
32. A condition to secure an accessible and adaptable home is imposed to satisfy Local Plan policy requirements.
33. To protect and mitigate the loss of habitats and species and enhance biodiversity, conditions regarding bird boxes and amphibian and hedgehog reasonable avoidance measures are required. A pre-commencement condition to secure a Precautionary Working Method Statement for Bats and an appropriate lighting scheme is necessary to prevent harm to protected species.

Conclusion

34. For the reasons given above the appeal should be allowed.

C Evans

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Proposed Site Plan (AG(00)02 REV G)
 - Proposed Site Section JJ (AG(00)15)
 - Proposed First Floor Plan (AG(00)07 REV D)
 - Proposed Southeast and Northeast Elevations (AG(00)10 REV D)
 - Proposed Ground Floor Plan (AG(00)06 REV D)

- Proposed Site Section GG and HH (AG(00)14)
 - Proposed Site Section CC and DD (AG(00)04 REV D)
 - Proposed Site Section AA and BB (AG(00)03 REV C)
 - Proposed Southwest and Northwest Elevations (AG(00)11 REV C)
 - Proposed Roof Plan (AG(00)09 REV C)
 - Proposed Roof Access Stairwell Plan (AG(00)08 REV C)
 - Proposed Site Section EE and FF (AG(00)05 REV B)
 - Topographical Survey and Location Plan (AG(00)01 REV A)
 - Hard and Soft Landscape GA Plan (SJ.MAL.01 REV A)
 - Planting Specification (SJ.MAL.03)
 - Planting Schedules (SJ.MAL.02 REV A)
- 3) No development above ground level shall take place until samples of all external facing materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved sample details.
- 4) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The submitted details shall:
- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.
- 5) The surface water drainage of the site shall be designed to prevent the discharge of water onto neighbouring properties and demonstrate that additional flows will not cause any flooding to properties downstream of the connection from the proposed drainage system. A drainage design shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details before the development is occupied.
- 6) No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner within 5 years from the date of the occupation of the building for its permitted use, other than in accordance with the approved plans.
- 7) The approved tree protection measures, as detailed in the approved Arboricultural Report shall be in place prior to the commencement of the works on site and shall be retained in place and must only be removed with the written agreement from the local planning authority.

- 8) The approved landscaping scheme shall be completed either: not later than the first planting season following first occupation of the development; or during the appropriate planting season progressively as the development proceeds, in accordance with a programme to be agreed in writing with the local planning authority. All works must be carried out to BS 8545: 2014 Trees: from nursery to independence in the landscape and BS 4428: 1989 Code of Practice for General Landscape Operations. Any trees/plants which die, become diseased, damaged or are removed within 5 years of planting shall be replaced with trees/plants of similar sizes and species or as may otherwise be agreed with the local planning authority in the first available planting season thereafter. An audit trail of the plant stock used for the scheme must be retained for biosecurity reasons and made available to the local planning authority on request.
- 9) The rating level of the noise emitted from any plant shall not exceed the existing background noise level. The noise level shall be determined at the nearest noise sensitive premises. The measurements and assessments shall be made according to BS4142: 2014 Method for Rating Industrial and Commercial Sound.
- 10) No works shall take place, including any demolition, site clearance or ground works, until a Construction Method Statement comprehensively detailing the phasing and logistics of demolition/construction has been submitted to and approved in writing by the local planning authority. The method statement shall include, but not be limited to:
- i) construction traffic routes, including provision for access to the site;
 - ii) site entrance/exit for visitors/contractors/deliveries;
 - iii) location of directional signage within the site;
 - iv) siting of temporary containers;
 - v) parking of vehicles for contractors, site operatives and visitors;
 - vi) identification of working space and extent of areas to be temporarily enclosed and secured during each phase of demolition/construction;
 - vii) temporary roads/areas of hard standing;
 - viii) schedule for large vehicles delivering/exporting materials to and from site;
 - ix) storage of materials and large/heavy vehicles/machinery on site;
 - x) measures to control the emission of dust and dirt during construction;
 - xi) details of street sweeping/street cleansing/wheelwash facilities;
 - xii) details for the recycling/disposing of waste resulting from demolition and construction works;
 - xiii) delivery, demolition and construction working hours;
 - xiv) phasing of works including start/finish dates;
 - xv) a public engagement strategy for the duration of the build from pre-commencement through to completion.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 11) The development hereby permitted shall not be occupied until details of bird boxes to include the number, type and location on an appropriately scaled plan and the timing of installation, has been provided for approval by the local planning authority. These shall be carried out in accordance with the approved details. Evidence of implementation (i.e. photographs) will need to be provided to the local planning authority to enable discharge of the condition.

- 12) Prior to the commencement of development, a Precautionary Working Method Statement for Bats shall be submitted to the local planning authority and approved in writing. The works shall then be carried out in accordance with the approved Method Statement.
- 13) No external lighting shall be installed within the development until a detailed external lighting scheme has been submitted to the local planning authority and approved in writing. The scheme shall be designed to minimise light spill onto bat foraging and commuting habitats and shall accord with the latest guidance from the Bat Conservation Trust and the Institute of Lighting Professionals (e.g. Guidance Note 08/23: Bats and Artificial Lighting in the UK). The submitted scheme shall include:
- i) a layout plan showing the position, height, and specification of all proposed external lighting;
 - ii) details of all luminaires, including beam angles, lumen output, and colour temperature;
 - iii) measures to control light spill and glare, including shields, hoods, timers, dimmers, and motion sensors where appropriate;
 - iv) a lux contour plan demonstrating that light levels will not exceed 1 lux at the boundary of identified bat habitats such as hedgerows, tree lines, or watercourses.

The approved lighting scheme shall be implemented in full prior to first occupation of the dwelling and shall be retained and maintained as approved thereafter. No other external lighting shall be installed without the prior written approval of the local planning authority.

- 14) Existing vegetation on the site will be gradually cut outside of the amphibian and hedgehog hibernation period (November-March). The working area, together with any storage areas, will be kept clear of debris, and any stored materials will be kept off the ground on pallets. Any open excavations (e.g. foundations / footings / service trenches etc) will be covered with plywood sheeting (or similar) at the end of each working day. The edges of these sheets will be covered with a thick layer of topsoil or similar). Any excavation must be in-filled and made good to ground level with compacted stone or similar at the earliest opportunity.
- 15) Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B, C, D, E and F; or Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any equivalent Order following the amendment, revocation and re-enactment thereof, the dwelling hereby approved shall not be altered or extended, and no buildings, structure, gates, fences or walls shall be erected within their curtilage except with the prior written approval of the local planning authority.
- 16) The roof areas of the development hereby permitted shall be used for maintenance purposes only.
- 17) Prior to the installation of any solar panels, details of their design and finish, including measures to prevent glare to surrounding properties, shall be submitted to the local planning authority and approved in writing. Installation shall be carried out in accordance with the approved details.

- 18) The development shall be designed and constructed to meet the requirements of Part M4(2) (Accessible and Adaptable Dwellings) of the Building Regulations 2010.
- 19) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), and the Use Classes Order 1987 (or any equivalent Order following the amendment, revocation and re-enactment thereof), the premises shall only be used as a dwellinghouse within Use Class C3 and for no other purpose.