

APPENDIX

Committee: PLANNING

Date Of Meeting: 9th March 2011

Title of Report: TOWN AND COUNTRY PLANNING ACT 1990 APPEALS

Report of: A Wallis Planning and Economic Regeneration Director
Case Officer: Telephone 0151 934 4616

This report contains	Yes	No
Confidential information		✓
Exempt information by virtue of paragraph(s) of Part 1 of Schedule 12A to the Local Government Act 1972		✓
Is the decision on this report DELEGATED?	✓	

Purpose of Report:

To advise Members of the current situation with regard to appeals. Attached is a list of new appeals, enforcement appeals, developments on existing appeals and copies of appeal decisions received from the Planning Inspectorate.

Recommendation(s):

That the contents of this report be noted.

Corporate Objective Monitoring

Corporate Objective	Impact		
	Positive	Neutral	Negative
1 Creating A Learning Community		✓	
2 Creating Safe Communities		✓	
3 Jobs & Prosperity		✓	
4 Improving Health & Well Being		✓	
5 Environmental Sustainability		✓	
6 Creating Inclusive Communities		✓	
7 Improving The Quality Of Council Services & Strengthening Local Democracy		✓	

Financial Implications

None.

Departments consulted in the preparation of this Report

None.

List of Background Papers relied upon in the preparation of this report

Correspondence received from the Planning Inspectorate.

Appeals Received and Decisions Made

From 28 January 2011 to 25 February 2011

Planning Appeal Decisions

Plot 3 Land to Rear of Oak Hey Lambshear Lane, Lydiate

S/2010/0907 - 2138594

Erection of 1no detached dormer bungalow together with a new access road onto Liverpool Road

Appeal Type: Written
Lodged Date: 19/10/2010
Decision: Allowed
Decision Date: 07/02/2011

Plot 2 Land to RearOak Hey Lambshear Lane, Lydiate

S/2010/0908 - 2138593

Erection of 1no detached dormer bungalow together with a detached double garage to the side/ rear and access road onto Liverpool Road

Appeal Type: Written
Lodged Date: 28/10/2010
Decision: Allowed
Decision Date: 07/02/2011

The Crown Hotel 304 Liverpool Road, Birkdale

S/2010/1195 - APP/M4320/H/10/2140820

Advertisement Consent for the display of four free standing post signs to the car park to the front and side and three illuminated fascia signs to the front and side elevations of the public house.

Appeal Type: Written
Lodged Date: 23/11/2010
Decision: Allowed
Decision Date: 24/02/2011

58 Moor Drive, Crosby

S/2010/0926 - 2143663

Retrospective application for a single storey extension to side and rear together with a first floor extension to the side of the dwellinghouse

Appeal Type: Written
Lodged Date: 19/01/2011
Decision: Allowed
Decision Date: 18/02/2011

36 Litherland Park, Litherland

S/2010/0171 - 2137418

Conversion to 5 apartments including the erection of a part two and a half - part two storey extension to the side and two storey extension to the rear, new basement access and car parking to the rear

Appeal Type: Written
Lodged Date: 29/09/2010
Decision: Dismissed
Decision Date: 24/02/2011

New Planning Appeals

White House Ince Lane, Thornton

S/2010/0848 - 2139136

Listed Building Consent for the retention of the existing front boundary railings and modified gates

Appeal Type: Written
Lodged Date: 03/11/2010
Decision: ALLOWED&DISM
Decision Date: 08/02/2011

White House Ince Lane, Thornton

S/2010/0847 - 2139472

Retention of the existing front boundary railings and modified gates

Appeal Type: Written
Lodged Date: 03/11/2010
Decision: ALLOWED&DISM
Decision Date: 08/02/2011

47-53 South Road, Waterloo

S/2010/1169 - 2145114

Sub-division to create a smaller retail unit with the remaining area to be changed into a Class A4 use to form a public house (including serving meals) [re-submission of S/2010/0045 withdrawn 23/03/2010]

Appeal Type: Public
Lodged Date: 02/02/2011
Decision: PENDING
Decision Date: 03/02/2011

Enforcement Appeals Decisions**The White House Ince Lane, Thornton**

2130966 - ENFS/2010/00040

Listed building

Appeal Type: Written
Lodged Date: 21/10/2010
Decision: PARTUPHELD
Decision Date: 08/02/2011

New Enforcement Appeals**273 Hawthorne Road, Bootle**

2146093 - CLB/ENFO395

Conservation Area

Appeal Type: Written
Lodged Date: 08/02/2011
Decision: PENDING
Decision Date: 09/02/2011



Appeal Decision

Site visit made on 11 January 2011

by Simon Berkeley BA MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 February 2011

Appeal Ref: APP/M4320/A/10/2138594

Plot 3, Liverpool Road, Lydiate, Merseyside L31 2LX

- 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 & Mrs D Wooton against the decision of Sefton Metropolitan Borough Council.
 - The application reference S/2010/0907, dated 13 May 2010, was refused by notice dated 18 August 2010.
 - The development proposed is the erection of a detached dormer bungalow.
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Decision

1. I allow the appeal and grant planning permission for the erection of a detached dormer bungalow at Plot 3, Liverpool Road, Lydiate, Merseyside L31 2LX, in accordance with the terms of the application, reference S/2010/0907, dated 13 May 2010, subject to the nine conditions set out in the schedule below.

Procedural matters

2. There is a proposal for a house on Plot 2, near to this appeal site, which is also the subject of an appeal, reference APP/M4320/A/10/2138593. This is considered in a separate decision letter.
3. An amendment was made to the scheme during the Council's consideration of the application. The Council determined the proposal on the basis of the revised drawing, number 1905/1a, and I have dealt with the appeal accordingly. Notwithstanding the postcode given on the application form, I understand the correct postcode to be L31 2LX. Consequently, I have used that postcode in the heading and my formal decision.

Main issues

4. The main issues are the effect of the proposed dwelling on neighbours' living conditions in terms of visual impact and on the character and appearance of the surrounding area.

Reasons

5. The appeal site forms part of a wider parcel of undeveloped land off Liverpool Road. Outline planning permission was granted in March 2009 for three detached dormer bungalows on this wider area.

Effect on neighbours' living conditions in terms of visual impact

6. The proposed dwelling would face towards the side boundary enclosing the rear garden of 97b Liverpool Road, and that of number 97a beyond. However, it would be set back within its plot, and the access to the wider parcel would divide the two properties. As a consequence, the main part of its front elevation would not be exceptionally close to the boundary of number 97b. The distance between the new dwelling and the built form of that neighbouring bungalow, including its rear conservatory, would be significantly greater.
7. The dwelling would be around 7 metres high at its ridge, and the front facing gable would be of a corresponding height. However, the eaves of the main portion of the front elevation would be considerably lower. As a result, the building's bulk would be quite limited.
8. Overall, in my view, the scale of the proposed dwelling would not be excessive. Because of this and the intervening distance involved, it would not be unduly intrusive from number 97b, particularly from within the property and the garden area closest to the bungalow. Whilst the proposed front gable would be closer to that garden, it would not be substantially so, and this relationship would be limited to the far end of the garden, away from the bungalow and its most intimate outdoor areas. In my opinion, notwithstanding the contrasting materials proposed, it would not be a visually oppressive feature, and would be acceptable. As the dwelling would be even further from number 97a, I consider that it would not have an overbearing visual effect there.
9. I therefore conclude that the proposed dwelling would not materially harm neighbours' living conditions in terms of visual impact. As such, it would not conflict with the aims of Policies DQ1 and CS3 of the Sefton Unitary Development Plan (UDP). The former seeks to protect the amenity of those adjacent to the site, whilst the latter does not allow development that would cause significant harm to amenity.

Effect on the character and appearance of the surrounding area

10. On my site visit I saw that homes in this neighbourhood include detached and semi-detached houses and bungalows in an assortment of design styles. Their sizes and that of their plots also differ considerably. The three storey development at the junction of Oakhill Cottage Lane and the rather large commercial buildings adjacent to the appeal site add to the variety here. As a result, I consider the area to be of a somewhat mixed appearance.
11. Because of its position to the rear of the quite large commercial buildings, views of the proposed dwelling from Liverpool Road would be confined largely to glimpses over some distance down the wider site access. Its visibility from the street would be significantly restricted. Although noticeable from some vantage points, its presence would not be widely felt. Given this, and in the context of these surroundings, I consider that it would not look out of place, or result in the site appearing overdeveloped. Indeed, the design incorporates materials evident within the area, which would help the building to blend in.
12. I conclude that the proposed dwelling would not harm the character and appearance of the surrounding area. It would not, therefore, be discordant with the objectives of UDP Policies DQ1 and CS3 which on this point. These do not permit developments unless the proposal responds positively to the character and form of its surroundings, and makes a positive contribution in terms of scale, form, massing and style, among other things.

Other matters

13. Local residents have raised other concerns, and I have taken account of all the evidence. However, both of the proposed front dormer windows would be 10.5 metres from the garden of number 97b. To my mind, they would be sufficiently distant so as to avoid any significant loss of privacy there. That they would meet the recommended minimum distances set out in the Council's Supplementary Planning Guidance: *New Housing Development* adds to my view on this point. Whilst the front window in the facing gable would not meet those guidelines, the annotation on the application plans clearly show that it would be fitted with obscured glazing and would have no opening lights. This would eliminate the potential for overlooking from it. Because of its presence in this closer position, it is possible that the occupiers of the rear gardens it would face towards could experience some perception of being overlooked. However, that the window is fitted with obscured glazing would be apparent, and the effect would not be so severe as to justify dismissing the appeal.
14. If built, the dwelling previously allowed here by the Council would be likely to give rise to traffic along the access driveway. Although the dwelling now sought would be larger, it is not inevitable that the number of vehicular movements would be greater. As I see it, any difference involved would not be particularly significant either in terms of the impact on highway safety or any noise and disturbance caused to neighbouring occupiers.
15. I recognise the differences between this scheme and that previously allowed by the Council. Nevertheless, this application seeks full planning permission, and is not fettered by the restrictions of the outline permission. Though a larger dwelling is now sought, closer to numbers 97a and 97b, I have considered the scheme on its merits and have found it to be acceptable. Whether it is regarded as a dormer bungalow or a house does not alter this. The effects of construction work would be little different to those that would occur in the event of the existing outline permission being implemented. In any case, these would be temporary effects, and do not amount to a strong reason for resisting the scheme.

Conditions

16. I have considered the conditions suggested by the Council in the light of advice in Circular 11/95: *The Use of Conditions in Planning Permissions*. To ensure a satisfactory appearance, samples of the dwelling's external materials should be subject to the Council's approval, and the proposed landscaping should be carried out before the dwelling is occupied, and properly maintained. To this end, and to make sure that neighbours' living conditions are safeguarded, a condition removing permitted development rights to extend the dwelling or erect outbuildings is also needed. To prevent overlooking to number 97b, the first floor front gable window should be fitted with obscured glazing as proposed, fixed shut, and retained as such.
17. Conditions requiring the provision of a vehicle and pedestrian access, and the laying out of vehicle parking and manoeuvring areas before the dwelling is occupied are required, in the interests of safety. To control the effects of any piling or compaction works necessary as part of the dwelling's construction, the Council should approve details of such works beforehand. In addition, for the avoidance of doubt and in the interests of proper planning, it is necessary that the development shall be carried out in accordance with the approved plans, other than as set out in this decision and conditions. I shall impose appropriate conditions accordingly.

18. However, given the relationship of the proposed dwelling with others nearby, it is not necessary to remove permitted development rights to insert new windows. Consequently, I shall not include such a condition.

Conclusion

19. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Simon Berkeley,

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 3) The approved hard and soft landscaping scheme shall be carried out in accordance with a timetable that shall first have been approved in writing by the local planning authority. Any trees or plants which within a period of 5 years after planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no extensions, garages or other outbuildings shall be erected.
- 5) Before the dwelling is first occupied a means of vehicular and pedestrian access shall have been constructed in accordance with details first approved in writing by the local planning authority.
- 6) Before the dwelling is first occupied all areas for vehicle parking, turning and manoeuvring shall have been laid out, surfaced, demarcated and drained in accordance with the approved plan. These areas shall be retained for their intended use thereafter.
- 7) During the construction of the dwelling, any piling works and/or ground compaction shall be undertaken in accordance with details first approved in writing by the local planning authority. Such details shall include the hours and duration of piling and/or ground compaction works, and measures to suppress dust.
- 8) The first floor window in the front gable element of the dwelling shall be fitted with obscured glazing and fixed shut at all times.
- 9) The development hereby permitted shall be carried out in accordance with the following approved plans: 1905/loc/a; 1905/1a; 2and3/drivesect; and M/124/LRL/LAND/01.



Appeal Decision

Site visit made on 11 January 2011

by Simon Berkeley BA MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 February 2011

Appeal Ref: APP/M4320/A/10/2138593

Plot 2, Liverpool Road, Lydiate, Merseyside L31 2LX

- 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 A McCullough against the decision of Sefton Metropolitan Borough Council.
 - The application reference S/2010/0908, dated 13 May 2010, was refused by notice dated 18 August 2010.
 - The development proposed is the erection of a detached dormer bungalow and double garage.
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Decision

1. I allow the appeal and grant planning permission for the erection of a detached dormer bungalow and double garage at Plot 2, Liverpool Road, Lydiate, Merseyside L31 2LX, in accordance with the terms of the application, reference S/2010/0908, dated 13 May 2010, subject to the nine conditions set out in the schedule below.

Procedural matters

2. There is a proposal for a house on Plot 3, near to this appeal site, which is also the subject of an appeal, reference APP/M4320/A/10/2138594. This is considered in a separate decision letter.
3. Notwithstanding the two different postcodes given on the application and appeal forms, I understand the correct postcode to be L31 2LX. Consequently, I have used that postcode in the heading and my formal decision.

Main issues

4. The main issues are the effect of the proposed dwelling on neighbours' living conditions in terms of visual impact and on the character and appearance of the surrounding area.

Reasons

5. The appeal site forms part of a wider parcel of undeveloped land off Liverpool Road. Outline planning permission was granted in March 2009 for three detached dormer bungalows on this wider area.

Effect on neighbours' living conditions in terms of visual impact

6. Plot 2 is immediately adjacent to the fence line demarking the rear boundary of 97a and 97b Liverpool Road, and the side boundary to the rear of 95b Liverpool Road. The proposed dwelling would be roughly 'L' shaped, such that the closest part of it

to number 97b would be a blank gable end. Views of the property from number 97a would be of that gable and the south-western section of the rear elevation.

7. The main parties do not dispute that the proposed property's roof ridge would be 6.5 metres in height. However, the eaves would be substantially lower. As a result, although quite wide and spanning the rear boundary of number 97b, the overall mass of the gable would not be excessive. Though longer, the position of the eaves and roof gradient would similarly limit the bulk of the property from the rear.
8. From the Council's measurements, the dwelling would be set back from the fencing by approximately 3.4 metres. In addition, both of these properties have rear gardens of some length. Consequently, notwithstanding their rear additions, the proposed dwelling would not be especially close to them.
9. Overall, because of the intervening distance and the limited scale of its closest and most visible elements, the proposed dwelling would not be unduly intrusive from the adjacent properties concerned, including from their most intimate outdoor areas closest to them. That the height of the intervening fencing would hide much of it from their ground floor rooms and garden adds to this. To my mind, whilst its introduction would bring about a change from the current situation, including in terms of the aspect from numbers 97a and 97b, the relationship would not be dissimilar to that commonly found in conventional housing layouts, and would not be visually overbearing.
10. Moreover, the dwelling would be considerably further from the boundary with number 95b, and would not be near to that home. Indeed, the Council's officer report indicates that the separation distance would be over 13 metres. Consequently, notwithstanding the comments about the finished floor levels at number 95b, I consider that the proposed dwelling would not have an unacceptable visual effect at that property.
11. I therefore conclude that the proposed dwelling would not materially harm neighbours' living conditions in terms of visual impact. As such, it would not conflict with the aims of Policies DQ1 and CS3 of the Sefton Unitary Development Plan (UDP). The former seeks to protect the amenity of those adjacent to the site, whilst the latter does not allow development that would cause significant harm to amenity.

Effect on the character and appearance of the surrounding area

12. On my site visit I saw that homes in this neighbourhood include detached and semi-detached houses and bungalows in an assortment of design styles. Their sizes and that of their plots also differ considerably. The three storey development at the junction of Oakhill Cottage Lane and the rather large commercial buildings adjacent to the appeal site add to the variety here. As a result, I consider the area to be of a somewhat mixed appearance.
13. Because of its position, views of the proposed dwelling from Liverpool Road would be confined largely to glimpses over some distance down the wider site access. Its visibility from the street would be significantly restricted. Although noticeable from some vantage points, its presence would not be widely felt. Given this, and in the context of these surroundings, I consider that it would not look out of place, or result in the site appearing overdeveloped. Indeed, the design incorporates materials evident within the area, which would help the building to blend in.
14. I conclude that the proposed dwelling would not harm the character and appearance of the surrounding area. It would not, therefore, be discordant with the objectives of UDP Policies DQ1 and CS3 on this point. These do not permit development unless

the proposal responds positively to the character and form of its surroundings, and makes a positive contribution in terms of scale, form, massing and style, among other things.

Other matters

15. Local residents have raised other concerns, and I have taken account of all the evidence. However, the front dormer windows in the southeast section would face away from both neighbours. Those in the front elevation, in the northeast portion of the dwelling, would be rather distant from number 97b. Any views of that home from them would not be in close quarters. Whilst it may be possible to see some parts of numbers 97a and 97b from the rear dormer windows, the angle would be rather oblique. The distance between the proposed dormer windows and the areas where the neighbouring occupiers might reasonably expect to have the greatest levels of privacy would be significant, including in respect of number 95b. Considering all these factors, I am satisfied that any reduction in privacy would not be so significant that material harm would be caused.
16. I recognise the differences between this scheme and that previously allowed by the Council. Nevertheless, this application seeks full planning permission, and is not fettered by the restrictions of the outline permission. Though a larger dwelling is now sought, closer to numbers 97a and 97b, I have considered the scheme on its merits and have found it to be acceptable. Whether it is regarded as a dormer bungalow or a house does not alter this. The effects of construction work would be little different to those that would occur in the event of the existing outline permission being implemented. In any case, these would be temporary impacts, and do not amount to a strong reason for resisting the scheme.

Conditions

17. I have considered the conditions suggested by the Council in the light of advice in Circular 11/95: *The Use of Conditions in Planning Permissions*. To ensure a satisfactory appearance, samples of the dwelling's external materials should be subject to the Council's approval, and the proposed landscaping should be carried out before the dwelling is occupied, and properly maintained. To prevent overlooking to neighbouring homes, it is necessary to remove permitted development rights to insert windows, although this need apply only to the two gable elevations. A condition removing permitted development rights to extend the dwelling or erect outbuildings is also needed, to make sure that neighbours' living conditions are safeguarded. Conditions requiring the provision of a vehicle and pedestrian access, and the laying out of vehicle parking and manoeuvring areas before the dwelling is occupied are required, in the interests of safety. To control the effects of any piling or compaction works necessary as part of the dwelling's construction, the Council should approve details of such works beforehand. In addition, for the avoidance of doubt and in the interests of proper planning, it is necessary that the development shall be carried out in accordance with the approved plans, other than as set out in this decision and conditions. I shall impose appropriate conditions accordingly.

Conclusion

18. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Simon Berkeley, INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 3) The approved hard and soft landscaping scheme shall be carried out in accordance with a timetable that shall first have been approved in writing by the local planning authority. Any trees or plants which within a period of 5 years after planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no extensions, garages or other outbuildings shall be erected, other than the garage expressly authorised by this permission.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no windows or dormer windows shall be constructed on the north-eastern gable elevation facing Plot 1 or the south-eastern gable elevation facing 97b Liverpool Road.
- 6) Before the dwelling is first occupied a means of vehicular and pedestrian access shall have been constructed in accordance with details first approved in writing by the local planning authority.
- 7) Before the dwelling is first occupied all areas for vehicle parking, turning and manoeuvring shall have been laid out, surfaced, demarcated and drained in accordance with the approved plan. These areas shall be retained for their intended use thereafter.
- 8) During the construction of the dwelling, any piling works and/or ground compaction shall be undertaken in accordance with details first approved in writing by the local planning authority. Such details shall include the hours and duration of piling and/or ground compaction works, and measures to suppress dust.
- 9) The development hereby permitted shall be carried out in accordance with the following approved plans: 1906/loc/a; 1906/1; 2and3/drivesect; and M/124/LRL/LAND/01.



Appeal Decision

Site visit made on 8 February 2011

by **S R G Baird BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 February 2011

Appeal Ref: APP/M4320/H/10/2140820

The Crown Hotel, 304 Liverpool Road, Birkdale, Merseyside PR8 3BZ.

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mitchells & Butlers Retail Limited against the decision of Sefton Metropolitan Borough Council.
 - The application Ref S/2010/1195, dated 23 August 2010, was refused by notice dated 21 October 2010.
 - The advertisement proposed is a totem sign to the car park area.
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Decision

1. The appeal is allowed and consent granted for a totem sign to the car park area from the date of this decision and is subject to the 5 standard conditions set out in the Regulations.

Reasons

2. Powers under the above Regulations may be exercised only in the interests of amenity and public safety, taking account of any material factors. The sign has been erected and replaces a rectangular tapering pillar some 1.5m higher than the current sign. Liverpool Road is a main route into Southport and is heavily trafficked. Notwithstanding the nature of the road, the Council has indicated that highway safety is not an issue. I have no reason to disagree and conclude that the sign does result in a distraction to drivers.
3. The impact on amenity is essentially a matter of subjective judgement. From the photographs supplied, it appears to me that the pillar this sign replaced was a substantial feature in the street scene. Whilst the Council considers it may have been a "novelty feature" it clearly had, through its height and width, a significant presence in the street. The size, shape, detail and finish of the sign on the front of the building is clean, sharp, distinctive and in scale with the mass of this building and adjoining buildings. The sign is not intrusive or incongruous in the context of The Crown Hotel, the wider residential area or this busy main road. As such the sign does not conflict with the objectives of Unitary Development Plan Policy MD7.
4. For the reasons given above and having regard to all other matters raised, I conclude that the advertisement is not detrimental to the interests of public safety or amenity.

George Baird

INSPECTOR



Appeal Decision

Site visit made on 7 February 2011

by **Jim Metcalf MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 February 2011

Appeal Ref: APP/M4320/D/11/2143663
58 Moor Drive, Crosby, Liverpool, L23 2UR

- 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 Edward Humphrey against the decision of Sefton Council.
 - The application Ref S/2010/0926, dated 15 June 2010, was refused by notice dated 15 October 2010.
 - The development proposed is 'part retention of single storey extension and proposed first floor extension at side'.
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Decision

1. I allow the appeal and grant planning permission for a part single and part two storey side extension at 58 Moor Drive, Crosby, Liverpool, L23 2UR in accordance with the terms of the application, Ref S/2010/0926, dated 15 June 2010, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawings received on 1st July 2010 and amended drawings received on 25th August 2010.
 - 2) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing house.

Procedural Matter

2. A single storey extension has been built at the side of the appeal property. This is complete and occupied. The first floor side extension would be above the front part of the extension that has been built. In effect the scheme amounts to a part single and part two storey side extension and I have therefore used this description in my formal decision. I have omitted the term 'part retention' as this is not a description of development.

Main issue

3. The single storey extension part of the development, already built, was subject of a separate planning application (ref S/2010/1644) submitted after the decision subject of this appeal. The appellant explains that planning permission was granted. Consequently, I regard the main issue as the effect of the first floor part of the extension on the living conditions of neighbours with regard to outlook.
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Reasons

4. The proposed first floor would be above that part of the single storey extension where it sits alongside the main side wall of the house. At the front it would be set back about 0.8m from the main front wall and at the rear would line up with the main rear wall of the house. The eaves on the extension would be the same height as the house eaves.
5. There are windows in the side of the house next door, No 56 Moor Drive that face the side of the appeal property. These include a generous window in the hall and smaller windows on the landing and toilet upstairs. All these windows are obscure glazed. The space between the side wall of No 56 Moor Drive and the ground floor extension at No 58 Moor Drive has been roofed to form a covered patio type area.
6. Policies MD1 and DQ1 of the Sefton Unitary Development Plan (UDP) are designed, amongst other things to ensure that development does not cause significant harm to the amenities of neighbours. In more detail the Council's Supplementary Planning Guidance regarding 'House Extensions' (SPG) makes it clear that extensions should not overshadow windows in neighbouring habitable rooms. The SPG definition of habitable rooms does not include halls, landing or toilets. Thus, although the first floor extension would introduce an element of overshadowing at the side of No 56 Moor Drive this would not affect habitable rooms. Furthermore, I consider that the effect of the first floor part of the extension on the outlook from the windows in the side of No 56 Moor Drive would not be so overbearing as to justify withholding planning permission.
7. Because of its position at the side of No 58 Moor Drive the extension would not be unduly prominent when seen from the adjoining semi, No 60 Moor Drive. The Council have not raised any concern about the effect of the extension on the street scene along Moor Drive and I accept this approach. I have noted the concern of the resident at No 56 Moor Drive that the single storey extension and the boundary wall at the front have involved work on his side of the joint boundary. However, I am unable to arbitrate on this issue. I do note that the Council have granted planning permission for the work already carried out.
8. I conclude that the first floor part of the extension would not have a significant effect on the living conditions of neighbours with regard to outlook and would be compliant in this respect with the Council policies set down in SPG and in UDP Policies MD1 and DQ1.
9. The Council submit that conditions are needed to specify the approved plans and require the materials used to build the extension to match those of the existing house. I agree and have added two conditions accordingly. Because the work has commenced, in that the ground floor extension is built, a time limit condition for commencement is unnecessary.

Jim Metcalf

INSPECTOR



Appeal Decision

Site visit made on 8 February 2011

by **S R G Baird BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 February 2011

Appeal Ref: APP/M4320/A/10/2137418

36 Litherland Park, Litherland, Liverpool L21 9HP

- 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 Mrs S Stockton against the decision of Sefton Metropolitan Borough Council.
- The application Ref S/2010/0171, dated 4 February 2010, was refused by notice dated 8 April 2010
- The development proposed is the removal of an existing entrance porch, basement access and tree, alterations to the elevations and the erection of a part 2½-storey/2-storey side extension and a 2-storey rear extension, alterations and renovation work to convert the existing property currently separated into 7 bedsits to provide 5 apartments including the construction of a new basement access and rear parking area and including all associated works.

Decision

1. The appeal is dismissed.

Main Issues

2. The implications for neighbours' living conditions with particular reference to noise and disturbance, outlook, daylight and sunlight and the effect on the character and appearance of the area.

Reasons

Noise and Disturbance

3. Whilst the existing layout provides for car parking adjacent to No. 37, it does not extend much beyond its main rear elevation. The proposed layout would relocate the parking spaces to the rear of the garden with vehicular access directly adjacent to the 1.5m high fence that forms the boundary with No. 37. Whilst Supplementary Planning Guidance – New Housing Development refers to car parking behind dwellings it does so on the basis that it should not cause undue disturbance to neighbours. The same objective of protecting adjoining residents from noise and disturbance is found in Unitary Development Plan (UDP) Policy MD2. Here, given the position of the drive and the parking spaces deep within the garden, the comings and goings of vehicles and the associated opening and closing of car doors and revving of engines would unacceptably affect the use and enjoyment of the rear garden and rear habitable rooms of No. 37 making them significantly less pleasant place to use and live in.

Daylight, Sunlight and Outlook

4. Given the depth and width of the extension, there would be some reduction in the amount of daylight and sunlight received by Nos. 35 and 37. However, given the orientation of the houses and the open aspect to the rear, the reduction would not be material. In terms of outlook, the side extension would maintain a gap of some 4.6m to the side elevation of No. 37 and would not project behind its main rear elevation. In this context and given the side facing windows would be obscure glazed the extension would not unacceptably dominate or reduce the level of privacy enjoyed by No. 37.

Character and Appearance

5. Nos. 35 and 36 are a substantial pair of houses that have a considerable presence in the street scene. Despite some minor changes to the windows and the porch at No. 36 these houses retain a strong sense of unity. In designing this extension, the designer has gone to significant lengths to mimic several features of the existing house that contribute to the character and appearance of the street scene and to ensure that the extension would appear subordinate to the host building. However, specific elements of the design, particularly the size of the first floor windows in the front elevation of the extension and their relationship with the size and position of the original windows, the proportion of brickwork to window in the 2½-storey element and the massing of the 2-storey element result in an extension that would appear incongruous and obtrusive in the street scene.

Other Matters

6. The existing parking layout at No. 36 permits access to the rear garden and I accept that the existing 1.5m high fence is of little deterrent to those wishing to access the rear of No. 37. The proposed layout would make little difference to the existing situation. Moreover, if the residents are concerned about security and unauthorised access to their property it is for them to take such action, within the bounds of reasonableness, as they consider necessary, to secure their property
7. A S106 Unilateral Undertaking has been submitted to provide for tree planting in line with UDP Policy DQ3. Regulation 122 of the Community Infrastructure Levy Regulations 2010 sets out limitations on the circumstances where an obligation can be taken into account. Here, having regard to UDP Policy and SPD - Green Spaces Trees and Development 2008 the proposed contribution does not appear to be outside the limitations set by Regulation 122.

Conclusions

8. Notwithstanding the conclusions on daylight, sunlight, outlook and security, I consider the unacceptable harm to the character and appearance of the area and to neighbours' living conditions through noise and disturbance are compelling reasons why this appeal should be dismissed. Accordingly, this proposal would conflict with the objectives of UDP Policies CS3, H10 and MD2.

George Baird

INSPECTOR



Appeal Decisions

Site visit made on 1st February 2011

by Clive Whitehouse BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 February 2011

Appeal A: APP/M4320/F/10/2139066

The White House, Ince Lane, Thornton L23 4UJ

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr John Fox against a listed building enforcement notice issued by Sefton Metropolitan Borough Council.
- The notice was issued on 8th October 2010.
- The contravention of listed building control alleged in the notice is the erection of front boundary railings and gates.
- The requirement of the notice is to remove the front boundary railings and gates.
- The period for compliance with the requirement is 3 months.
- The appeal is made on the grounds set out in section 39(1)(e), (h) and (j) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Summary of Decision: The enforcement notice is upheld with a variation, as set out in the formal decision, below.

Appeal B: APP/M4320/E/10/2139472

The White House, Ince Lane, Thornton L23 4UJ

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Mr John Fox against the decision of Sefton Metropolitan Borough Council.
- The application Ref S2010/0848, dated 17th June 2010, was refused by notice dated 23rd August 2010.
- The works proposed are to retain railings and modified gates.

Summary of Decision: The appeal succeeds in part and fails in part, as set out in the formal decision, below.

Appeal C: APP/M4320/A/10/2139136

The White House, Ince Lane, Thornton L23 4UJ

- 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 John Fox against the decision of Sefton Metropolitan Borough Council.
- The application Ref S/2010/0847, dated 17th June 2010, was refused by notice dated 23rd August 2010.
- The development proposed is to retain railings and modified gates.

Summary of Decision: The appeal succeeds in part and fails in part, as set out in the formal decision, below.

Background and Procedural Matters

1. The White House is a grade II listed building dating from the 1820s or 30s, which has recently been renovated as a single dwelling. It is surrounded by mature trees and is located off a busy road in a rural setting. The metal railings and double gates extend for about 65m across the road frontage.
2. The three appeals fall under different legislation, but all relate to the existing and proposed front boundary treatment. The enforcement appeal relates to the railings and the gates as they exist, whereas appeals B and C relate to a proposed modified gate design, but seek the retention of the existing metal railings.

Main Issue

3. I consider the main issue to be the effect of the railings and gates on the setting of the listed building.

The Gates

4. The existing double metal gates are of a plain and functional design and are seen from the main road against the driveway and part of the house. The appellant has conceded that the existing gates are not consistent with the setting and architectural quality of the listed building, and I agree. Negotiations between the parties have resulted in a revised and appropriately detailed gate design, which would be hung from new, stuccoed gate piers reflecting the stuccoed finish of the house.
5. Although the Council is satisfied with the design of the proposed gates, the applications under appeals B and C were refused for reasons relating solely to the existing railings.
6. I conclude on the main issue in respect of appeal A that the existing gates do not make a positive contribution to the setting of the listed building, and in respect of appeals B and C that the proposed gates would make a positive contribution. I will uphold the requirement of the enforcement notice to remove the existing gates, and I will grant planning permission and listed building consent for the proposed replacement gates.

The Railings

7. The railings are of a similar design to the existing gates, being about 2m high and composed of plain, black-painted hollow steel sections and cross pieces. It would appear that they replaced a hedge that formed part of the tree-belt across the site frontage. Whilst acknowledging that the railings are of a functional appearance, the appellant points out that from the road the house is largely hidden by trees and shrubs and that the railings are seen in that context. Shrubs have been planted at intervals within the fence-line to supplement the existing vegetation, and the appellant contends that those will quickly grow through the railings and diminish any visual impact.
8. The Council's opinion is that the railings would be more in keeping with a modern business park or industrial area, rather than as the boundary treatment for a Georgian villa in a rural location.
9. Turning to the mitigating effect of the boundary vegetation, the house could be discerned through the trees in February, but I accept that it would be almost completely hidden when the trees are in leaf. Even though the presence of

the house is only glimpsed from the road and there is little inter-visibility between the house and the railings, I consider that the road frontage is nonetheless a significant part of the setting of the listed building.

10. In their existing form, I consider that the railings do not make a positive contribution to the setting of the listed building. They were erected in 2009 and the boundary vegetation had not started to grow through them to a significant degree at the time of my visit, so it is likely to be some years before their visual impact would be mitigated.
11. The appellant contends that the railings have an important security function, given the isolated position of the house. On the face of it, security could be a significant material consideration in that location, but the argument is weakened somewhat by the fact that the other three boundaries of the property are not secured, allowing easy access from the surrounding fields. Planning permission has been granted for 2m high timber post and rail fences on those boundaries, but those would have little security value.
12. I have had regard to all other matters raised, including the support of the Parish Council for the appellant's actions, but I conclude on the main issue that the existing railings are harmful to the setting of the listed building. As such their retention would be contrary to saved Unitary Development Plan policy HC4 and policy HE10 of Planning Policy Statement 5: Planning for the Historic Environment.
13. The Council's reason for the refusal of planning permission (appeal C) includes reference to the visual amenity of the Green Belt, which national and local policies seek to preserve. I consider that the height and open design of the railings and their position bounding a wooded area is such that they do not have a materially adverse effect on the visual amenities of the Green Belt.
14. I will uphold the requirement of the enforcement notice to remove the railings and will refuse planning permission and listed building consent for the retention of the railings.

Appeal A on Ground (j)

15. It is contended on behalf of the appellant that the requirements of the enforcement notice exceed what is necessary to alleviate the effect of the works. It is suggested, for instance, that a reduction in the height of the railings might overcome the objections, but no specific proposal has been put forward for consideration. In that situation possible modifications are a matter for discussion between the parties, and I do not propose to vary the requirements.

Appeal a on Ground (h)

16. In the event of the requirements being upheld, the appellant seeks an extended period of 6 months for compliance, instead of 3 months. It is submitted that the railings should be allowed to remain until an amended scheme has been formally agreed. I accept that additional time should be allowed for that process. I consider that it is not necessary to remove the existing gates before the railings. I will vary the notice by extending the period for compliance to 6 months from the date of this decision.

Formal Decisions

Appeal A

17. I direct that the enforcement notice be varied by substituting 6 months for 3 months as the time for compliance in Schedule 2. Subject to that variation I dismiss the appeal, uphold the enforcement notice, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

18. I dismiss the appeal and refuse to grant listed building consent for the retention of the existing front boundary railings.

19. I allow the appeal insofar as it relates to the proposed modified gates, as shown on submitted drawing No. 454.02, and grant listed building consent for those works at The White House, Ince Lane, Thornton 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 gates shall be painted black within 1 month of being installed and shall be maintained in that condition thereafter.

Appeal C

20. I dismiss the appeal insofar as it relates to the retention of the existing front boundary railings. I allow the appeal insofar as it relates to the proposed modified gates, as shown on submitted drawing No.454.02 and I grant planning permission for those proposed gates at The White House, Ince Lane, Thornton in accordance with the terms of the application, Ref S/2010/0847, dated 17th June 2010, subject to the same two conditions as set out under Appeal B, above.

C Whitehouse

INSPECTOR