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<b>Application Number</b>	<b>Date of Appln</b>	<b>Committee Date</b>	<b>Ward</b>
091255/FH/2009/N1	12th Nov 2009	11th Feb 2010	Cheetham Ward

**Proposal** Installation of wayney lap fence behind existing boundary wall to raise boundary treatment around rear yard to a maximum height of 2.16m above alleyway ground level

**Location** 1 Wythburn Avenue, Cheetham, Manchester, M8 0RX,

**Applicant** Mr Michael Dowling , 1 Wythburn Avenue, Cheetham, Manchester, M8 0RX,

**Agent** Mr Roy Allen, R L Allen Draughtsman, 56 Dalton Avenue, Stretford, M32 9TP

### **Description**

The Site - This application relates to an end terraced dwellinghouse located at 1 Wythburn Avenue in the Cheetham area of North Manchester. The area surrounding the application site is residential in nature.

The Proposal - Planning permission is sought for the installation of fencing panels behind the existing boundary wall of the rear yard so that the overall height of the boundary treatment surrounding the rear yard would vary from between 2.15m and 2.16m high. The fence panels are required as the existing boundary wall is not high enough and therefore poses a security risk.

It should be noted that some higher fence panels are already in existence at the site, behind the existing boundary wall, but these were erected without planning permission. The existing fence panels are considered to be too high and visually obtrusive. Therefore, the proposal now being applied for represents an alternative, more acceptable, solution. The fence would extend along the side alleyway of the house, to rear of numbers 111 to 115 Smedley Road, and would be set back from the road, and would return to run along the alleyway immediately behind the house that is next to an electricity sub-station.

A letter was received from the occupier of the application site justifying why the fence panels are required.

### **Consultations**

Neighbours - Occupiers of properties surrounding the application site were notified of the proposal. 1 letter of support, that has been signed by 5 local residents, was received. 7 letters of objection were received, but it should be noted that these were received following notification to the neighbours of the application for retention of the unauthorised fencing that is currently already erected at the site. The main issues of concern raised in the objection letters received in relation to the existing unauthorised fencing relate to:

- The safety of the erected fence panels

- The visual appearance of the fence panels as boundary walls are characteristic of the area
- Security concerns due to the fact that people could gain access over the wall into the rear garden of No. 1 Wythburn Avenue and then hide behind the fence.

Following receipt of revised plans showing the new proposed fencing (at a reduced height to the existing unauthorised fencing), 1 letter of objection was received that was signed by 11 local residents. It stated that all the issues that had been raised previously still remain, e.g. security concerns and the visual appearance of the fence as proposed to a higher brick wall.

## **Issues**

### **Regional Policy**

The Regional Spatial Strategy (RSS) for the North West of England policy DP2 promotes sustainable communities by focusing on achieving a high quality of life and fostering sustainable relationships between homes, workplaces and other concentrations of regularly used facilities and services. The proposal is considered to be consistent with these policies.

### **Local Policy**

Unitary Development Plan - Policy H2.2 'Housing' states that the Council will not allow development that would have an unacceptable impact on residential areas. For the above reasons, it is considered that the development would be acceptable and consistent with UDP policy H2.2 'Housing'.

Visual amenity - The proposed fence panels would raise the boundary treatment at the application site to a maximum height of 2.16m which is only slightly higher than the 2m boundary treatment that would be allowed as permitted development. It is considered that as the fence panels would only protrude slightly above the existing boundary wall, the new fence panels would be acceptable. It is considered that the new boundary treatment would complement other boundary treatments within the area that largely consist of brick walls or concrete panels. Other boundary treatments are of a similar height to the proposed boundary treatments, although it should be noted that the alleyway to the rear of the properties along Wythburn Avenue slopes downwards towards the application property, so the boundary treatment at No. 1 Wythburn Avenue would be the tallest of all the properties along this row of terraces in order to maintain a consistent height for the top of the boundary treatments. It is also considered that to further enhance the visual appearance of the fence panels, they should be varnished a dark colour. This element of the works has been conditioned.

Security - The existing boundary wall at the property is 1500-1550mm high and the new fence panels behind the wall would raise the boundary treatment to a maximum of 2160mm. It should also be noted that an application was recently approved to gate the alleyway which will secure the alleyway and only allow local residents with keys to the locked gates to enter the alleyway (see app. 091137).

**Human Rights Act 1998 considerations** – This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have the right to a fair hearing and to this end the Committee must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person's home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Unitary Development Plan, the Head of Planning has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. He believes that any restriction on these rights posed by the approval of the application is proportionate to the wider benefits of approval and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

### **Recommendation APPROVE**

Approve in the light of policy DP2 of the Regional Spatial Strategy and policy H2.2 of the Unitary Development Plan on the basis that the proposed new fencing would not adversely affect visual amenity within the area.

### **Conditions and/or Reasons**

1) The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason - Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

2) The development hereby approved shall be carried out in accordance with the following drawings and documents unless otherwise agreed in writing by the City Council as Local Planning Authority:

The site location plan, stamped as received by the Local Planning Authority on 16 September 2009

Drawing R2285A, stamped as received by the Local Planning Authority on 12 November 2009

Reason - To ensure that the development is carried out in accordance with the approved plans. Pursuant to policy H2.2 of the Manchester Unitary Development Plan.

3) The fence panels hereby approved shall be varnished a dark brown colour that shall be submitted to and approved in writing by the City Council as Local Planning Authority before development commences. The fence panels shall be varnished in

accordance with the approved details and shall be maintained in that colour for as long as they are erected at the application site.

Reason - To protect residential amenity, pursuant to UDP policy H2.2

### **Local Government (Access to Information) Act 1985**

The documents referred to in the course of this report are either contained in the file(s) relating to application ref: 091255/FH/2009/N1 held by planning or are City Council planning policies, the Unitary Development Plan for the City of Manchester, national planning guidance documents, or relevant decisions on other applications or appeals, copies of which are held by the Planning Division.

### **The following residents, businesses and other third parties in the area were consulted/notified on the application:**

2 Wythburn Avenue, Manchester, M8 0RX  
3 Wythburn Avenue, Manchester, M8 0RX  
1 Wythburn Avenue, Manchester, M8 0RX  
119 Smedley Road, Manchester, M8 0RS  
115 Smedley Road, Manchester, M8 0RS  
113 Smedley Road, Manchester, M8 0RS  
111 Smedley Road, Manchester, M8 0RS  
109 Smedley Road, Manchester, M8 0RS  
107 Smedley Road, Manchester, M8 0RS

### **Representations were received from the following third parties:**

1 Wythburn Avenue, Manchester, M8 0RX  
3 Wythburn Avenue, Manchester, M8 0RX  
5 Wythburn Avenue, Manchester, M8 0RX  
9 Wythburn Avenue, Manchester, M8 0RX  
13 Wythburn Avenue, Manchester, M8 0RX  
14 Wythburn Avenue, Manchester, M8 0RX  
15 Wythburn Avenue, Manchester, M8 0RX  
17 Wythburn Avenue, Manchester, M8 0RX  
105 Smedley Road, Manchester, M8 0RS  
107 Smedley Road, Manchester, M8 0RS  
109 Smedley Road, Manchester, M8 0RS  
111 Smedley Road, Manchester, M8 0RS  
135 Smedley Road, Manchester, M8 0RS  
141 Smedley Road, Manchester, M8 0RS  
155 Smedley Road, Manchester, M8 0RS

**Relevant Contact Officer :** Carolyn Parry  
**Telephone number :** 0161 234 4022  
**Email :** [c.parry@manchester.gov.uk](mailto:c.parry@manchester.gov.uk)