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## Appeal Decision

Site visit made on 7 August 2017

**by Graeme Robbie BA(Hons) BPI MRTPI**

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

**Decision date: 11 August 2017**

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**Appeal Ref: APP/N4720/W/17/3171675**

**20 Moor Park Drive, Headingley, Leeds, Yorkshire LS6 4BX**

- 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 Anne McDermott against the decision of Leeds City Council.
  - The application Ref 16/05460/FU, dated 24 August 2016, was refused by notice dated 15 December 2016.
  - The development proposed is a fence to rear.
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### Decision

1. The appeal is allowed and planning permission is granted for a fence to rear at 20 Moor Park Drive, Headingley, Leeds, Yorkshire LS6 4BX in accordance with the terms of the application, Ref 16/05460/FU, dated 24 August 2016, subject to the following conditions:
  - 1) The development hereby permitted shall be retained in accordance with the following approved plans: Site Location Plan; Block Plan / Layout Plan and Elevations (20 Moor Park Drive: Fence at the Rear of the Property).

### Procedural Matters

2. I have taken the development description from the Council's decision notice, with slight amendment, which I consider to more accurately and concisely describe the development for which permission is sought.
3. At the time of my visit to the site a fence was in place at the rear of 20 Moor Park Drive. Although the relative widths of the fence panels as erected differ slightly from those shown on the submitted plan, I am satisfied that the fence as built does not materially differ from that shown on the submitted plan. I have therefore determined the appeal accordingly.

### Main Issue

4. The main issue is the effect of the development on the character and appearance of the surrounding area.

### Reasons

5. The appeal property is located towards the end of a street of semi-detached properties. Moor Park Road runs parallel to Moor Drive to the east and Moor Park Avenue to the west. Whereas the rear gardens of properties in other parallel streets back on to each other, the opposing rear gardens of Moor Park Road and Moor Drive back on to a public right of way in the manner of an urban 'back lane'.

6. The Council consider the relationship of the fence to the adjacent right of way to be akin to the front of the property in terms of its impact. Thus, they consider the position, height and style of the fence to be an incongruous and alien feature that is harmful to, and fails to reflect, local character and the local townscape.
7. I disagree. Although the path, as it heads north away from the appeal site and beyond properties on Moor Park Mount towards residential streets further north, has a more secluded, wooded and rural feel to it, the area between the rear garden boundaries of properties on Moor Park Drive and Moor Drive has the character and appearance of a back lane. It is not, to my mind, akin to the front of the property.
8. It is, though, heavily overgrown along the majority of its length and this continues the somewhat rural feel to the path. However, the proximity of the rear elevations of the houses along both sides of this stretch of the path, together with the mix of high and low fences and walls, outbuildings and garages, suggests a transition to a more urban setting. In this context, the fence does not look out of place and does not cause material harm to the character or appearance of the area between Moor Park Drive and Moor Drive.
9. Although the height of the fence varies as ground levels fall from one side of the rear boundary to the other, I felt no sense that it was an overpowering, incongruous or an alien feature within the rear lane. Rather, the overgrown and unkempt path and the variety of boundary treatments and structures create a somewhat eclectic and varied character. Nor does the fence obscure the stone boundary wall to an extent that would be as harmful as the Council suggest. There is a fall from north to south along the length of the lane, with a corresponding fall across the width of the rear of the appeal site. Although the fence panels are a uniform height, they are mounted on posts so as to provide a horizontal level at the top of the fence. The panels, mounted on the lane side of the wall, do not extend to ground level and so an increasing amount of the stone wall remains visible across the width of the rear boundary.
10. Thus, I conclude that there would be no conflict with the aims and objectives of policies P10 or P12 of the Leeds Core Strategy, or with those of saved policy GP5 of the Leeds Unitary Development Plan. Together these policies seek to secure high quality design that respects the character and quality of surrounding buildings, and the streets and spaces that make up the public realm.

### **Other Matters**

11. I note that the Council did not raise any concerns in terms of the effect of the fence on highway safety, residential amenity or access along the public right of way. Although these matters are not determinative, they add weight to my conclusion set out above.
12. Local residents have also raised other concerns, including in relation to land ownership and maintenance liabilities. These are not however material considerations to which I can attach any great weight.

### **Conditions**

13. I have considered the Council's suggested conditions in light of the Framework and Planning Practice Guidance. As the fence has already been constructed I have revised the wording of the plans condition to ensure that the fence is retained in accordance with the approved plans.
14. I have not imposed a condition requiring the maintenance of the fence in a sound condition as it lacks precision and would be unreasonable. There would also be other options available to the Council should the condition of the fence become harmful to visual amenity.

### **Conclusion**

15. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be allowed.

*Graeme Robbie*

INSPECTOR