
Appeal Decision

Site visit made on 13 April 2021

by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2021

Appeal Ref: APP/N4720/W/20/3262008

38 High Ash Mount, Alwoodley, Leeds LS17 8RW

- 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 Mark Stangroom against the decision of Leeds City Council.
 - The application Ref 20/04120/FU, dated 9 July 2020, was refused by notice dated 29 September 2020.
 - The development proposed is the erection of a temporary raised platform in the form of a children's playhouse/treehouse.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a temporary raised platform in the form of a children's playhouse/treehouse at 38 High Ash Mount, Alwoodley, Leeds LS17 8RW in accordance with the terms of the application, Ref 20/04120/FU, dated 9 July 2020, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
BLOCK_PLAN-3340543
LOCATION_PLAN__BLOCK_PLAN-3353635
PROPOSED_ELEVATIONS_AND_FLOOR_PLAN-3360537
 - 2) Within 3 months from the date of this decision, details of the paint and colour to be used on the sides of the development shall be submitted to and approved in writing by the local planning authority. The development shall be painted in accordance with the approved details within 3 months of the Council approving the details.
 - 3) The development hereby permitted shall be for a limited period being the period of 5 years from the date of this decision. Thereafter, the building hereby permitted shall be removed and the site restored to its former condition on or before 29 June 2026.

Preliminary Matters

2. I have amended the description of development from that given on the planning application form in the interests of conciseness.
3. The proposal has been partially erected, and I have considered the development accordingly. Within the appellant's submissions, a door at the top of the steps on the front elevation is referred to. However, this is not on the plans before me and thus I have not considered it.

Main Issues

4. These are the effect of the development on:
 - (a) The character and appearance of the area; and,
 - (b) The living conditions of the occupiers of
 - (i) 55 High Ash Crescent, with specific regard to light, dominance and privacy;
 - (ii) 36 and 40 High Ash Mount, with specific regard to dominance and privacy, and,
 - (iii) all adjacent dwellings with specific regard to noise.

Reasons

Character and appearance

5. The property is a semi-detached dormer bungalow, within an estate of similar type properties in a suburban area of Alwoodley. Located to the far end of the rear garden, within a group of tall trees, the development is for a temporary wooden tree house. It is located around 2m above ground level and is about 2.4m tall, reaching an overall height of 4.4m with a plastic transparent roof. Its footprint is around 7 square metres, being approximately 3.2m wide and 2.1m long. Steps are proposed to the front elevation of the tree house, that lead to an open covered area the width of the steps, followed by a door into a 'room'. It contains no windows in any of the elevations.
6. The height of the tree house is tall and it is visible from the neighbouring gardens, 2 of which I visited. However, it is set within, and attached to, a group of very tall trees, such that it is visually contained. The trees are located within the garden of the appellant, subject to his control, and are much taller than the tree house itself. Furthermore, its construction in wood enables it to blend with the trees, although it would benefit from being painted a darker colour, and I note the appellant intends to paint it green. This would reduce its prominence from neighbouring gardens, enabling it to blend in sympathetically such that it would be relatively unobtrusive. This is a matter that could be the subject of a condition.
7. Furthermore, a tree house is not an alien concept to a suburban residential area, and its prominence does not necessarily equate to harm, particularly given that the development proposed is temporary. The appellant indicates that his children will have outgrown it in the next few years, and therefore it would be reasonable to require its removal after 5 years. This would ensure the tree house was removed following its use by the appellant's children.
8. Consequently, with the above conditions, the development would have an acceptable effect upon the character and appearance of the area. This is compliant with Policy P10 of the Core Strategy (as amended by the Core Strategy Selective Review 2019) (September 2019) (CS) and Policies GP5 and BD6 of the Leeds Unitary Development Plan (Review – 2006), Volume 1: Written Statement (July 2006) (UDP) which together seek to ensure high quality inclusive design that protects the residential amenity of the area.
9. There would also be compliance with the Householder Design Guide Supplementary Planning Document (April 2012) (SPD), which seeks to ensure development should respect the main dwelling and locality. Additionally, I find

compliance with the National Planning Policy Framework, which seeks to achieve well designed places.

Living conditions

10. As set out above, the tree house is contained within an existing group of tall trees. Therefore, I fail to see how it could result in loss of light to No 55 as the trees themselves will cast shadows. Moreover, No 55 is to the south of the appeal dwelling and therefore there could be no direct loss of sunlight. The effect upon the occupiers of No 55 would be acceptable in this regard.
11. Likewise, any dominance or sense of overbearing from the structure towards Nos 36, 40 and 55 is also lessened by the enclosure of the existing trees. Whilst it is a more solid structure, given its location at the end of the garden, the effect of the development is not overly dominant. The assertion by the Council that the trees are more sympathetic and traditional features, and therefore are not dominant is nonsensical. The trees are tall and wide and create a much greater sense of dominance than the modestly sized tree house. Therefore, the proposal would not have an unacceptably dominant effect upon the occupiers of Nos 36, 40 and 55.
12. The tree house contains no windows and therefore there could be no loss of privacy or overlooking of neighbouring properties from the 'room' created. The only point where there is an open raised platform would be at the top of the steps. This is a narrow part of the tree house and used for access into the structure.
13. No 40 adjoins the appeal dwelling and the entrance is visible from upper floor windows and their patio. No 36 is separated by a driveway and garage and the effect is considerably lessened. Nevertheless, even though this open element of the tree house would be elevated and visible from No 36 and 40's gardens and dwellings, it is essentially a small platform at the top of some steps. The effect of any overlooking would be transient, passive and minimal, experienced only when exiting the tree house. Consequently, I am not persuaded this would result in a harmful effect upon neighbouring living conditions of the occupiers of Nos 36 and 40.
14. The perception of being overlooked is different to that of actual loss of privacy, and I fail to see how the occupants of No 55 would be affected by any overlooking as the elevation facing No 55 is solid. Furthermore, owing to the solid nature of the sides, the claim from the Council that users of the tree house could overlook the neighbouring gardens through any small gaps in the wooden plank sides is implausible.
15. Any noise arising from the tree house would be contained within the structure. The tree house does not appear to benefit from any formal soundproofing and children may spend longer playing in the structure than in one space in the garden. However, to my mind, sounds experienced by children playing in the open garden would be comparable with sound contained within the tree house.
16. Furthermore, perception of noise is not the same as actual noise and disturbance. This is a residential housing estate where sounds from children playing would be wholly expected. Therefore, any noise arising from children playing in the tree house would be acceptable.

17. Consequently, the proposal would have an acceptable effect upon the living conditions of the occupiers of all the neighbouring dwellings. There would be compliance with Policy P10 of the CS, which seeks to protect neighbouring amenity. There would also be compliance with the SPD and the Framework, which both seek to ensure development protects the amenity of neighbours.

Other Matters

18. Interested parties have raised several concerns, most of which are addressed within the reasons above. However, rain dripping from the structure onto neighbouring gardens would have a minimal effect given its size and containment within the trees, which are also likely to drip on neighbouring gardens. The safety of the structure and future health of the trees would be a matter for the appellant. Existing planning permissions at the appeal dwelling are not before me, and I can only consider this appeal.

Conditions

19. Aside from the conditions I have detailed above, a condition requiring the development to be implemented in accordance with the approved plans is necessary for certainty.
20. I have not applied the Council suggested conditions that would remove the permitted development rights as the development would not benefit from such rights. Any future alterations would need planning permission and therefore the conditions would be unnecessary.

Conclusion

21. For the reasons set out above, I conclude that the appeal should be allowed.

Katie McDonald

INSPECTOR