
Appeal Decision

Site visit made on 6 January 2022

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2022

Appeal Ref: APP/N4720/C/21/3282833

23 Iveson Crescent, Lawnswood, Leeds, LS16 6NU as shown edged red on the attached plan

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Ophir Madar against an enforcement notice issued by Leeds City Council.
 - The enforcement notice was issued on 18 August 2021.
 - The breach of planning control as alleged in the notice is without planning permission the installation of a French door on the side elevation of the dwellinghouse at first floor level. Contrary to Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The requirements of the notice are step 1: remove the unauthorised French door and return the North West elevation of the dwellinghouse to its condition prior to the breach and step 2: remove any resultant debris from the land.
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Reasons

Ground (a) appeal and the deemed planning application

2. The appeal has been made on ground (a) of s174 of the Town and Country Planning Act 1990 (as amended) which is that planning permission ought to be granted in respect of any breach of planning control which may be constituted by the matters stated in the notice.
3. I have considered the reasons for issuing the enforcement notice and the main issues in respect of the ground (a) appeal are the effect of the development on (i) the character and appearance of the area and (ii) the living conditions of the occupiers of the neighbouring property in respect of privacy.

Character and appearance

4. There is a general uniformity to the semi-detached dwellings in Iveson Crescent. They are all set within generous plots and many have single storey flat roofed side porches with first floor windows on the side elevations. There is an absence of doorways at first floor level. The general uniformity to the design

of the dwellings in this street adds positively and distinctively to the character and appearance of the area.

5. The French door has been erected at first floor level and can be seen from Iveson Crescent. Given the size, position and appearance of the French doors, they are seen as an incongruous and materially out of place addition to the appeal property and fail to assimilate well into the wider street-scene. I therefore conclude that the development does not accord with the design, character and appearance requirements of Policy P10 of the Leeds Core Strategy 2014, saved policy HDG1 of the Householder Design Guide SPD 2012 (HDG) and Chapter 12 of the National Planning Policy Framework (the Framework).

Living conditions

6. The appellant claims that as the glass in the French door is opaque, there is no overlooking of the neighbouring property. I acknowledge that the glass is opaque, but nonetheless there is potential for increased overlooking of the neighbours side windows and garden areas if the French doors were in an open position. Furthermore, it is not disputed that with the French doors in situ there would at least be the potential to facilitate use of the flat roof of the porch for sitting or standing purposes. The existence of the French doors would increase the likelihood of use of the flat roof for sitting or standing purposes. Given the close proximity to the side windows and garden areas of No 21 Iveson Crescent, this would have the effect of causing significant harm to the living conditions of the occupiers of this property in respect of loss of privacy.
7. The appellant suggests that rather than remove the French doors and brick up the side wall of the appeal dwellinghouse, an alternative would be to fit a steel bar in front of the outward opening French doors. While this would have the effect of addressing the Council's privacy concerns, it would nonetheless represent an incongruous and unsightly addition to the side of this dwelling. The side elevation of the dwelling is prominent within the street-scene and is also visible from the side windows and garden of No 21 Iveson Crescent. The use of a steel bar would look very industrial in appearance, in what is an attractive residential setting, and would exacerbate my aforementioned concern in respect of the adverse effect of the French doors on the character and appearance of the area.
8. I therefore conclude that the unauthorised development has the potential to cause harm to the living conditions of the occupiers of No 21 Iveson Crescent in respect of loss of privacy and the use of a steel bar, while addressing privacy concerns, would cause further and unacceptable harm to the character and appearance of the area. I therefore conclude that the development does not and would not accord with the design, character, appearance and amenity requirements of Policy P10 of the Local Plan Leeds Core Strategy 2014 (as amended), saved policies HDG1 and HDG2 of the HDG and Chapter 12 of the Framework.

Other Matters

9. The appellant claims that the French doors are needed as a safe means of escape onto the flat roof in the event of a fire. While I do not doubt that the French doors would offer a fire escape route, there may be other less intrusive options that the appellant could explore to deal with the consequences of a fire,

such as for example the use of a fire escape rope ladder. In respect of future maintenance of the roof, there is no reason why this could not take place using a ladder or other external access equipment. I am not persuaded that the need for possible future maintenance of the roof justifies the formation of a permanent and harmful first floor door.

10. While I do not doubt that the existing internal staircase makes it difficult to move very large furniture to the first floor level of the property, and the French doors would make such access much easier, there is nothing to suggest that the existing first floor rooms are not currently furnished, or that it would not be possible to opt for alternative arrangements such as the use of flat pack furniture.
11. At final comments stage, the appellant commented that the occupant of the property has '*large gym equipment which cannot be dismantled to be carried to our only spare room*'. I have not been provided with details of this equipment or, in any event, any persuasive evidence to demonstrate why it would not be possible, following compliance with the notice, to continue to provide a gym area elsewhere on the land with or without the existing gym equipment.
12. The appellant refers to No 82 Gipton Approach, Leeds as having similar French doors. I do not have any details relating to the property or the said development and, in any event, it is located in a different street. I have considered this appeal on its individual planning merits and in the context of the immediate locality.
13. None of the other matters raised alter or outweigh the harm caused in respect of my conclusions on the main issues.

Ground (a) appeal conclusion

14. For the collective reasons outlined above, and taking into account all other matters raised, the appeal on ground (a) fails.

Ground (f) appeal

15. The appeal on ground (f) is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
16. The appellant's case under ground (f) is that that the requirements of the notice, which is to remove the French doors and return the elevation to its condition prior to the breach, is excessive in so far that the provision of an external steel bar would address privacy concerns. However, I have addressed this alternative option as part of the ground (a) appeal and find that this would cause harm to the character and appearance of the area.
17. For the reasons outlined above, including my reasoning as part of the ground (a) appeal, I conclude that the steps in the notice are not excessive. Therefore, the ground (f) appeal fails.

Conclusion

18. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

D Hartley

INSPECTOR