
Appeal Decision

Site visit made on 22 February 2022

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th March 2022

Appeal Ref: APP/N4720/W/21/3288958

2 West End Rise, Horsforth, Leeds LS18 5JH

- 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 Colin & Julie Hattersley against the decision of Leeds City Council.
 - The application Ref 21/08110/FU, dated 27 September 2021, was refused by notice dated 9 December 2021.
 - The development proposed is change of use of part of alleyway to garden area.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The change of use appeared to have occurred at the time of my site visit. Timber boarded fencing had been erected within the area defined on the plans as an alleyway, enlarging the rear garden area at the host dwelling. The arrangement on the ground appeared to broadly reflect the submitted plans, but for the avoidance of doubt my determination has been made on the basis of the submitted plans.
3. The Council refer to paragraphs 100 and 108 of the PDF within their decision notice. The evidence clarifies that this reference was in relation to the NPPF (the Framework). Further, I have not been provided with the 'Manual for Streets' mentioned within the decision notice but have been provided with the Street Design Guide¹.

Application for costs

4. An application for costs was made by Mr & Mrs Colin & Julie Hattersley against Leeds City Council. This application is the subject of a separate decision.

Main Issue

5. The main issue is the effect of the change of use on the ease of use and safety for all users of the footpath.

Reasons

6. The alleyway to the rear of 2 West End Rise is identified by the Council as a non-definitive footpath. It links the south-west end of The Avenue and Hall Lane. An access track extends north eastwards from the footpath, serving a bungalow and

¹ Leeds City Council Street Design Guide Leeds Local Development Framework Supplementary Planning Document 2009.

the rear of properties on both the Avenue and Hall Lane. This track is of good with and provides vehicular access to The Avenue.

7. The change of use and the associated boundary fence arrangement has significantly reduced the width of the alleyway to the rear of the appeal property.
8. It is suggested that the alleyway has previously been overgrown to the extent that the footpath could not be accessed and that the scheme has resulted in improvements. However, the evidence on this matter is not compelling. The application form does indicate that the alleyway has been previously used for occasional pedestrian thoroughfare, suggesting that some use was previously possible.
9. Further, photographs have been submitted which appear to show planting dominating the alleyway, however these are few in number, limited in detail and undated. Overall, the evidence before me does not provide compelling evidence that the alleyway was inaccessible before the change of use occurred.
10. The change of use has resulted in a significant reduction in width to the alleyway which has resulted in the width available for the footpath being particularly limited adjacent to the north-eastern corner of the rear garden at the appeal property.
11. This narrow width makes the footpath permanently more difficult to negotiate for any users not on foot. Further, the positioning of the boundary fence means that there is no through visibility when approaching the footpath from Hall Lane. Not having forward visibility on approach is likely to negatively impact on users' perception of safety when using the footpath. The change of use therefore adversely affects the ease of use of the footpath for some users and sense of safety for all users of the footpath.
12. The change of use is therefore in conflict with Policy GP5 of the Leeds Unitary Development Plan (2006) (UDP) which amongst other things requires that development proposals resolved detailed planning considerations including access. It also requires that proposals seek to avoid problems of loss of amenity.
13. The change of use also conflicts with Paragraph 100 of the Framework² which states that planning decisions should protect and enhance public rights of way and access. This is a consideration which weighs against the scheme.
14. I do not find Policy T2 of the Core Strategy – Selective Review (2019) directly applicable to this case as this seems more concerned with the locational requirements of new development. I also do not find the suggested section of the Street Design Guide directly relevant as this seems to relate more directly to footways and footpaths directly beside roads. I also do not find paragraph 108 of the Framework directly applicable as it seems to relate to accessibility for pedestrians within the context of quality of parking.

Conclusion

15. The proposal would conflict with the development plan and there are no other considerations which outweigh this finding. The proposal is also in conflict with the Framework. Therefore, for the reasons given, the appeal is dismissed.

T J Burnham

INSPECTOR

² National Planning Policy Framework 2021.