



Appeal Decision

Site visit made on 26 April 2022

by Diane Cragg Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th May 2022

Appeal Ref: APP/N4720/D/22/3292831

78 Hill Top Mount, Leeds, West Yorkshire LS8 4EL

- 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 Hazera Begum against the decision of Leeds City Council.
 - The application Ref 21/08687/FU, dated 19 October 2021, was refused by notice dated 20 January 2022.
 - The development proposed is fence in back garden.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I saw at my site visit that the fence has already been constructed. I have no detailed drawings of the development before me therefore, I have considered the fencing as constructed at the appeal site.

Main Issues

3. The main issues are the effect of the development on (i) the character and appearance of the host property and the area, and (ii) the living conditions of No 80 Hill Top Mount with particular regard to light and outlook.

Reasons

Character and appearance

4. The appeal property is a terraced house in the middle of a row of similar designed properties. The terraced row faces Hill Top Mount with low walls adjacent to the street defining small courtyards in front of the houses. To the rear the properties have larger rear yards adjacent to Back Hill Top Mount. The rear yards are used variously for parking, storage of bins and as gardens. Many properties have changed or added additional height to the boundary treatment, and many have done so using fencing of various designs.
5. Back Hill Top Mount is a lit, narrow road which is a through route for vehicles and pedestrians. Opposite the terraced row the rear of ground floor commercial properties facing Roundhay Road border the street. Many of these commercial premises have been extended close to the road and others are enclosed by metal fencing.
6. The rear yard of the appeal property has been enclosed to a height said to be 2.35 metres by constructing close boarded fencing on top of a blockwork wall to the side boundary, and on top of a block and brick wall adjacent to Back Hill

Top Mount. In principle the enclosure of the yard is not dissimilar to many along the terraced row and there is also a wide variety of means of enclosure visible from the road. However, the overall height of the fencing and the poorly constructed blockwork walling below it draws attention and detracts from the character and appearance of the host property and the street.

7. Consequently, the fencing is detrimental to the character and appearance of the host property and the area in conflict with Policy P10 of the Leeds City Council Local Plan Core Strategy (as amended by the Core Strategy Selective Review 2019) adopted November 2014 and saved Policies GP5 and N25 of the Leeds Unitary Development Plan Review 2006 (UDP), which collectively seek to ensure that development is of good design, appropriate to its location and the character of the area. The proposal also conflicts with Policy HDG1 of the Leeds Householder Design Guide Supplementary Planning Document (SPD) April 2012 which seeks to ensure that boundary treatment and materials are appropriate to the locality.
8. Further, the development is not consistent with the National Planning Policy Framework (the Framework) in so far as it relates to the design of development.

Living conditions

9. The fencing is situated along the shared boundary with No 80 Hill Top Mount. The neighbouring property does not have habitable room windows adjacent to the fence, and in addition, the orientation of the buildings and fence mean that there is unlikely to be a material loss of daylight or sunlight associated with the development.
10. Nonetheless, the boundary treatment is highly visible from the neighbour's rear yard and is a dominant and overbearing feature. The overall height of the development and its close relationship to the neighbouring yard make it intrusive and detrimental to the outlook from the rear outside space of No 80.
11. Consequently, I conclude that the development is harmful to the living conditions of the occupants of No 80 Hill Top Mount with particular regard to outlook. As such it conflicts with Policy P10 of the Core Strategy and saved Policies GP5 and BD6 of the UDP where these policies seek to protect residential amenity. Nor does it accord with the SPD which seeks to protect the residential amenity of neighbours. Further, it does not comply with the Framework where it seeks to ensure development creates places with a high standard of amenity for existing users.

Public sector equality duty

12. I have taken into account the appellant's requirement for privacy in the rear garden area. In doing so I have had due regard to my responsibilities under the Equality Act 2010. I can appreciate that enclosing the rear area enables the appellant to use the space without being seen from the street or the neighbouring outside space. However, whilst I have sympathy with the appellants' situation and needs, there is very little evidence to suggest that they could only be addressed in the form of the development before me. I do not, therefore, consider that these personal circumstances outweigh the harm identified above.

Conclusion

13. For the reasons given above, I conclude that the fencing as constructed conflicts with the development plan and there are no material considerations, including the appellant's personal circumstances, that would outweigh that conflict. Therefore, the appeal is dismissed.

Diane Cragg

INSPECTOR