



Appeal Decision

Site visit made on 20 July 2022

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 15 September 2022

Appeal Ref: APP/N4720/D/22/3297586

5 Quarry Bank Court, Kirkstall, Leeds LS5 3NT

- 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 Helen Brear against the decision of Leeds City Council.
 - The application Ref 21/09248/FU, dated 11 November 2021, was refused by notice dated 31 January 2022.
 - The development proposed is described as retrospective application for rear dormer window with proposed balustrading to new flat roof forming enlarged balcony with obscure glazed screening.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form describes the development as 'adding to existing flat roof to create balcony'. This description does not reflect the development as built. Therefore, I will use the Council's description in the decision notice, which is listed above.
3. The plans submitted include those 'as built', and 'as proposed'. Both sets were assessed by the Council in their decision and have therefore been considered in this appeal.
4. The proposal as built includes a rear dormer extension with French doors and a glazed screen in front to prevent access onto the adjoining flat roof. The appellant has requested that if the proposal as a whole is not acceptable, consideration could be given to a split decision allowing the dormer, the retention of the flat roof and a window to replace the French doors.

Main Issues

5. The main issues are:
 - the effect of the proposal on the character and appearance of the area; and
 - the effect of the development on the living conditions of neighbouring properties.

Reasons

Character and appearance

6. No 5 Quarry Bank Court is a semi-detached modern house. It is located within a cul-de-sac of houses of similar style and date which adjoin more traditional housing. Quarry Bank Court is located in an elevated position, with land sloping downwards towards Vesper Lane and Vesper Gardens to the south and south-west.
7. No 5 has previously been extended to the rear, with a large, two-storey, pitched roof extension which mirrors the extension built to the rear of no 7, the adjoining house. The rear dormer extension which has been built, extends across the roof of Nos 5 and 7. These differ in that, whereas the pitched roof of the previous extension has been retained at No 7, No 5 has removed this in order to create a flat roof for a balcony with balustrade and glazed screening.
8. Whilst there are only glimpsed views of the dormer extension from Quarry Bank Court, because of the elevated position of no 5, and its location close to the entrance of the cul-de-sac, the proposal is highly visible. This includes from the recreational open space to the south-west, and from the top of Vesper Lane where there is a gap between No 42 Vesper Lane and the rear of Nos 1-7 Quarry Bank Court, including No 5.
9. The dormer is bulky and in a high position close to the ridge of the roof. Whilst the colour and materials of the dormer generally match those of the existing house, this has resulted in the development as built looking top heavy and incongruous in this location. The proportions of the original house are dominated by the rear development which does not reflect the character of the house. This is particularly so as the flat roof of the dormer is then stepped down to a significant flat roof on top of the first- floor rear bedroom. This, combined with the French door and glazed screen has created a highly visible development, particularly as the rear of Nos 5 and 7 are higher than the adjoining pairs of semi-detached housing.
10. I noted that no 9 Quarry Bank Court, to the west of this proposal, has a flat roofed rear dormer extension but I have no information on the planning history of this property.
11. The development as built, and the balcony as proposed, does not reflect the roofscapes and general characteristics prevalent to the housing within the area. In relation to the first main issue, this harms the character and appearance of the area.
12. The Leeds City Council, Householder Design Guide, Supplementary Design Guide (SPD), April 2012, Policy HDG1, provides advice on dormer windows, noting that particular care needs to be taken when deciding the siting and design of a dormer, including that they should not dominate the roof plane and unbalance the existing dwelling. The proposal would fail to accord with this advice. It would also not comply with Leeds Local Plan Core Strategy, as amended by the Core Strategy Selective Review 2019, (CS) Policy P10 which requires high quality design. In addition, it would not comply with saved policy BD6 of the Leeds Unitary Development Plan Review (UDP), adopted July 2006, which covers alterations and extensions needing to respect the scale, form, detailing and materials of the original dwelling.

Living conditions

13. The balcony would have a significant floor area. As it would be accessed from the 2nd floor, it would, because of the elevated vantage point in relation to surrounding land, command extensive views of the area. Although obscure glazing has been proposed to reduce overlooking into adjoining gardens, this would not prevent direct views into the rear garden area of no 26 Vespers Gardens to the south. Whilst there is a significant distance between the rear of these two properties, the height of the balcony means that it would have clear views of this semi-detached bungalow which has a flat, open, rear garden.
14. Notwithstanding whether the installation of obscure glazing would prevent views into adjoining gardens, glazed screens would not prevent a perception of being overlooked from adjoining properties. Although the appellant may have no desire to use the balcony other than for their own private use, an outdoor area such as this, could in the future be used for larger gatherings which could produce a significant amount of noise that would affect and therefore harm the quiet enjoyment that residents of adjoining properties could expect to have.
15. In relation to the second main issue, the balcony therefore harms the living conditions of neighbouring properties. This would be contrary to Policy HDG2 of the SPD, which covers overlooking and the impact on neighbours, Policy GP5 of the UDP which seeks to avoid loss of amenity, and CS Policy P10 that protects the general amenity of the area and privacy.

Other material considerations

16. The appellant resides at the premises and the appeal statement has explained the individual circumstances in relation to the need for external outdoor space and to live upstairs. It is not clarified as to whether any other security measures have been considered or how effective these living arrangements are in helping them have a defensible space. However, I can give a moderate amount of weight to the appellant's need for the development.

Other Matters

17. The appellant has invited me to consider a split decision if I were to consider that the dormer would be acceptable, but the balcony was not. I have considered the development as a whole as the balcony and dormer are not severable from one another. Furthermore, both elements are unacceptable as I have outlined within my conclusions on the main issues. I have also had insufficient information to give any weight to the appellant's suggestion that in different circumstances the development would not require planning permission.
18. Furthermore, refusing the application could represent an interference with the appellant's rights under Article 8 of the European Convention on Human Rights, as incorporated by the Human Rights Act 1998. Those are the right to respect for their private and family life, their home and their correspondence. The development already exists and is where the appellant primarily resides. A further process would be required however to seek its removal and the Council would need to consider the expediency of taking enforcement action which is not a matter for me. The Article 8 rights are not engaged.

Overall Planning Balance

19. I have had due regard to the public sector equality duty (PSED) set out under s149 of the Equality Act 2010. The development is required to meet the needs

of a person who has protected characteristics due to their age and disability. However, the harm that the development would cause to the character and appearance of the area and the living conditions of neighbours outweigh its benefits in terms of eliminating discrimination against persons with the protected characteristics of age and/or disability, advancing equality of opportunity for those persons and fostering good relations between them and others as well as the need to eliminate harassment and victimisation.

20. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations or other matters, either individually or in combination, that outweigh the identified harm and associated development plan conflict.

Conclusion

21. For the reasons given above, the appeal is dismissed.

M J Francis

INSPECTOR