



Appeal Decision

Site visit made on 7 January 2025

by **N Kempton BAHons PGDip MA IHBC MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 February 2025

Appeal Ref: APP/N4720/W/24/3352948

22 Victoria Park Avenue, Bramley, Leeds LS5 3DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Kishen Parmar on behalf of 4812 Abbey Ltd against the decision of Leeds City Council.
 - The application Ref is 24/04253/FU.
 - The development proposed is development of rear garden to provide 1No. separate 2-bedroomed dwelling house with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) in December 2024. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by this.

Main Issues

3. The main issues relevant to this appeal are the effect of the proposed development on:
 - the character and appearance of the area;
 - the living conditions of occupiers of 22 Victoria Park Avenue with particular regard to privacy and external amenity space;
 - the living conditions of future occupiers of the proposed dwelling with particular regard to privacy and external amenity space.

Reasons

Character and appearance

4. The appeal site is located in Victoria Park Avenue, which is a residential street comprising Victorian semi-detached dwellings. The area is suburban and predominantly residential, characterised by a tight urban grain. However, numbers 40- 22 Victoria Park Avenue are a notable exception. The elongated rear gardens associated with these properties create a verdant space and a distinctive openness in an otherwise relatively built-up local grain. These rear gardens are

attractive, with soft landscaping and some mature trees animating the space, positively contributing vibrancy and colour to the street scene. The topography of these rear gardens incline towards Abbey Avenue to the rear.

5. The immediate context of the appeal site is predominantly characterised by these relatively generous, undeveloped gardens. Whilst the two pairs of semis (17 and 19, and 12 and 39 Abbey Avenue) that appear as 'bookends' are noted, they predate current policy and are atypical in this context. The land between these 'bookends' remains open, except for some incidental garages. The assortment of fencing along the rear boundaries of these gardens, bordering Abbey Avenue, are haphazard but not uncommon in a built-up residential area.
6. The proposed dwelling would be incongruous by reason of being a single dwelling rather than forming part of a pair of semis and conspicuous occupying otherwise undeveloped land. 22 Victoria Park Avenue has been extended to the rear, such that the separation distances between this existing dwelling and that which is proposed, would be foreshortened. The proposed dwelling would be close up to the side boundaries and would appear cramped in the plot.
7. The loss of spaciousness on this plot would result in an incongruous form of development in its spatial context. It would not accord with the established pattern of development within the immediate locale. The siting of the proposed development would fail to assimilate with neighbouring properties, rather it would appear unduly prominent and visually imposing, resulting in disharmony in the street scene. As such, the proposed development would fail to reinforce and enhance the spacious character and distinctiveness of the appeal site and its setting.
8. The siting of the proposed development would be contrary to Policy H2 of the Leeds Core Strategy (2019) which, amongst other things, resists development of greenfield land where it makes a valuable contribution to the visual or spatial character of an area.

Living conditions- occupiers of 22 Victoria Park Avenue

9. The proposal to erect an additional dwelling at the end of the rear garden associated with the existing dwelling, 22 Victoria Park Avenue, would result in subdivision of the rear garden. The siting of the proposed dwelling and the position of the boundary fence delineating the new plot, would reduce the rear garden depth of the existing dwelling.
10. Given the floor area of the existing dwelling, which is over three floors and includes rear extensions, and is estimated by the Council to be in the region of 200sqm, the property is considered to be a family-sized dwelling. The garden area would be substantially reduced compared with the existing and that of neighbouring gardens in this group. The remaining garden would be disproportionate to the size of living accommodation. It would fail to meet the guidelines provided in the Neighbourhoods for Living SPG that private garden areas for family homes should have a minimum area of two thirds of the total gross floor area of the dwelling excluding vehicular provision. The remaining garden area would represent a significant shortfall. This would amount to inadequate useable private amenity space for the likely number of occupants of 22 Victoria Park Avenue.

11. Furthermore, in view of the sites' immediate context, the subdivision would diminish the distinctive openness of the remaining garden area and its contribution to the spatial quality of the group.
12. Due to the change in ground levels, specifically an incline towards Abbey Avenue, the proposed dwelling would be sited on higher ground compared with 22 Victoria Park Avenue. This would afford future occupiers of the proposed dwelling direct overlooking into the living accommodation and remaining garden area associated with the existing dwelling. This compromises neighbour privacy, undermines the purpose of a private garden and detracts from the enjoyment of the external amenity area for the neighbouring occupiers. The effect of the incline would heighten the perception of overlooking, exacerbate actual overlooking and would diminish privacy to an unacceptable degree.
13. The siting of the proposed dwelling would fail to achieve adequate separation distances and would afford direct intervisibility from primary windows at ground floor level. For these reasons, the proposed development would have a detrimental effect on the living conditions of 22 Victoria Park Avenue.
14. As such, the appeal scheme would be contrary to Policy P10 of the Leeds Core Strategy (2019), which seeks high quality design based on a thorough contextual analysis, and that protects and enhances a number of things including useable space and privacy. The proposal would also be contrary to policy GP5 of the Leeds Unitary Development Plan (2006), which states that development proposals should resolve detailed planning considerations and seek to avoid problems such as loss of amenity.
15. The inadequate useable private amenity space to serve the existing family home would fail to meet the objectives of the SPD regarding safeguarding privacy and amenity.
16. Furthermore, the appeal proposal would be contrary to paragraph 135(f) of the Framework, which states that development should create a high standard of amenity for existing and future users.

Living conditions- future occupiers

17. The siting of the proposed development would fail to achieve the guidelines set out in the SPD with regards to appropriate separation distances. This is accepted by the Appellant.
18. I note the suggested mitigation measures, specifically the omission of windows serving habitable rooms on the rear elevation of the proposed dwelling at first floor and the proposed erection of a 1.8m high fence along the shared boundary.
19. Notwithstanding these measures, the substantially diminished depth of the rear garden serving 22 Victoria Park Avenue and the proximity of the proposed dwelling to the shared boundary, would result in insufficient separation distances between windows within the rear elevation of the proposed dwelling, and retained windows within 22 Victoria Park Avenue. As such, the proposal fails to achieve adequate levels of privacy, rather it would afford intervisibility between the dwellings thereby resulting in overlooking between windows and over both neighbouring amenity spaces.

20. For these reasons, the proposed development would have a detrimental effect on the living conditions of the future occupiers of the proposed dwelling, with particular regard to privacy and external amenity space, contrary to policy P10 of the Leeds Core Strategy (2019). This policy seeks high quality design based on a thorough contextual analysis, and that protects and enhances a number of things including useable space and privacy.
21. The proposal would also be contrary to policy GP5 of the Leeds Unitary Development Plan (2006), which states that development proposals should resolve detailed planning considerations and seek to avoid problems such as loss of amenity.
22. Whilst the SPD is by definition guidance, I have had regard to the separation distances set out in this document and noted the precise wording. The guidelines informed my site-specific assessment. The proposed development would contravene the objectives of the SPD regarding safeguarding privacy and amenity.
23. The appeal proposal would be contrary to paragraph 135(f) of the Framework, which states that development should create a high standard of amenity for existing and future users.

Other Matters

24. The proposed development subject of this appeal case appears similar to that which was previously approved and has since been implemented at land adjacent to 7 Abbey Avenue, Bramley. Nonetheless, I observed on site that the development on land adjacent to 7 Abbey Avenue is a pair of semi-detached dwellings, which occupy an infill plot, flanked by houses on both sides. These semis form part of a row of existing dwellings. The immediate context of these semis is therefore materially different to the appeal proposal- specifically a detached dwelling occupying a rear garden, which forms part of a collective of large open gardens that provide a distinctive visual break in the wider area. As such, I am unable to draw any direct parallels between the two sites. I therefore attribute limited weight to comparison with this previous planning permission.

Conclusion

25. I have found that the proposed development would harm the character and appearance of the area. It would provide inadequate living conditions for the occupants of 22 Victoria Park Avenue and the future occupiers of the proposed dwelling, with particular regard to privacy and external amenity space.
26. I acknowledge that the proposed development would provide an additional dwelling; an important consideration in the context of the Government's objective to boost significantly the supply of homes. However, Leeds City Council can demonstrate a 5 year housing land supply. It would also bring some uplift to the local economy from construction services and the spending of future occupiers. Nonetheless, these benefits would not outweigh the identified harm.
27. For the reasons given above, having had regard to the development plan as a whole, I conclude that the appeal should be dismissed.

N Kempton

INSPECTOR