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## Appeal Decision

Site visit made on 23 March 2025

**by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 27 March 2025**

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**Appeal Ref: APP/W2465/D/24/3358182**

**84 Heyworth Road, Leicester LE3 2DB**

- 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 Dr Felicity Larson against the decision of Leicester City Council.
  - The application Ref is 20241165.
  - The development proposed is construction of fence at rear of property.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The Council changed the description of development from that stated on the application form in the interests of clarity. I consider that the amended description accurately describes the appeal scheme and accordingly I have adopted an amended description in the heading above.
3. Since the submission of the appeal the National Planning Policy Framework (2023) has been superseded by the National Planning Policy Framework (2024) (the Framework). However, in relation to this appeal the aims of both sets of policies are similar. No party would be prejudiced or caused any injustice by me proceeding with the appeal in light of this change in policy.
4. The appellant refers to Policy UD04 Energy Efficiency in the City of Leicester Local Plan 1996-Saved policies version (2006) (the Local Plan), however this policy has been superseded by Policy CS2 of the Leicester City Core Strategy (2014).

### Main Issue

5. The main issue in this appeal is the effect of the proposed development on the living conditions of occupiers of No. 82 Hayworth Road.

### Reasons

6. The appeal site is a semi-detached two storey property within a predominantly residential area. The appeal site and adjoining neighbour No. 82 Hayworth Road have long rear gardens. Patio areas are directly accessed from the rear of both properties via glazed patio doors.

7. There is a difference in levels between the patio areas to the rear of the appeal site and No. 82. The occupier of No. 82 confirmed that the difference in levels is approximately 47cms lower than the appeal site.
8. The proposed development would create a solid timber boundary fence between the appeal site and No. 82 projecting 4m from the rear elevation of the appeal property at 2m in height which would be approximately 2.47m in height when viewed from No. 82, based on the neighbours measurement. The fencing would then drop down to meet the garden which is similar level on both properties; the height of the fence would be approximately 2.5m for just over 2m where it would then meet up with the existing fencing.
9. The appellant has provided additional measurements in their grounds of appeal suggesting that the fence would be 2.27m above the decking when viewed from No. 82.
10. Notwithstanding the disagreement in terms of the height of the fence, based on my observations, when viewed from the decking or internally from No. 82, the fence which would be positioned on the southern boundary would be oppressive and would restrict light.
11. In relation to overshadowing the appellant confirms there would be loss of light to the decking and has provided information relating to BRE guidance suggesting this would be below the threshold set out by BRE guidance as representing a “significant impact on sunlight”. Even if this was the case this would not change my view that the proposed fence would be overbearing.
12. The appellant references Policy PS10 of the Local Plan suggesting it references a 45 degree line, whilst a 45 degree line assessment is common when determining planning proposals Policy PS10 does not relate to such an assessment.
13. Due to the relationship between the appeal site and No. 82 the fence would be prominent and overbearing in terms of outlook for the neighbouring occupiers, which would diminish the enjoyment of their property and private amenity space.
14. I find that the proposed development would harm the living conditions of occupiers of No. 82 Hayworth Road.
15. There is conflict with saved Policy PS10 of the Local Plan which amongst other things seek to protect the amenities of future occupiers of properties. There is conflict with the Framework which seeks to ensure developments have high standards of amenity for existing and future users.

## **Conclusion**

16. For the above reasons I conclude that this appeal should be dismissed.

*Chris Pipe*

INSPECTOR