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## Appeal Decision

Site visit made on 29 January 2017

**by Nigel Harrison BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 17 February 2017**

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**Appeal Ref: APP/T3725/D/16/3158298**

**8 Priory Road, Warwick, CV34 4NA**

- 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 Nick Fulford against the decision of Warwick District Council.
  - The application Ref: W/16/0584 dated 2 April 2016, was refused by notice dated 21 June 2016.
  - The development proposed is 'Erection of a two-storey rear extension following demolition of an existing single-storey rear extension; erection of replacement 3.0m high boundary wall to the side (western) boundary; and rendering side elevation'.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. I have taken the description of the proposed development from the Council's decision notice. Although it differs from that stated on the application form, I consider it more accurately describes the proposal.

### Main Issues

3. I consider there are two main issues in this case. Firstly the effect of the proposal on the character and appearance of the Warwick Conservation Area and on the setting of No 40 Chapel Street, a Grade II listed building. Secondly, the effect of the proposal on the living conditions of the occupiers of No 6 Priory Road and Nos 40 and 42 Chapel Street with regard to light and outlook.

### Reasons

#### *Effect on heritage assets –conservation area and listed building*

4. The appeal property is an end of terraced house within the Warwick Conservation Area and in close proximity to a Grade II listed building (No 42 Chapel Street). The rear garden is off-set to one side, and is mainly to the rear of the neighbouring terraced house, No 6 Priory Road. It is proposed to demolish the existing flat-roofed kitchen extension and boundary wall with No 6 and erect on the site a two-storey extension comprising a larger kitchen and with bathroom above. The ground floor element would occupy the full width of the dwelling with a chamfered corner with a glazed door to link with the garden. The first floor element would occupy about half of the available width of the lower part, with its flank wall angled at 45%. Although a natural slate roof was originally proposed this has now been amended to a standing seam
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zinc roof, and I have considered the appeal on this basis. The new windows would be aluminium framed. The walls would be clad with stack bonded grey bricks. A sedum roof is proposed on the exposed flat roof section of the kitchen extension. As part of the scheme it is proposed to wholly render the existing side gable elevation.

5. At the statutory level, Sections 16 (2) and 66 (1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* Act require the decision maker to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. Section 72 (1) refers to the special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
6. Policies DAP4 and DAP8 of the *Warwick District Local Plan 1996-2011* (LP) broadly repeat these statutory requirements. More generally, LP Policy DP1 (and ELP Policy BE1) state that development will only be permitted which positively contributes to the quality of the environment through good design and layout. I have also been referred to a raft of policies from the emerging *Warwick District Local Plan 2011-2029*. Although this has reached an advanced stage, the policies to which I have been referred generally correspond to the LP policies on which the Council has relied.
7. Paragraph 132 of the *National Planning Policy Framework* (the Framework) says great weight should be given to the conservation of heritage assets, (including listed buildings and their settings and conservation areas), and any harm to their significance should require clear and convincing justification.
8. The Council is concerned that the contemporary design and materials of the proposed extension would not relate to the character and appearance of the conservation area and setting of the adjacent listed building. It also says the structure would appear incongruous within the wider conservation area which is characterised by traditional brick built and slate or tile roofed properties, with white painted timber window frames.
9. However, it seems to me that the proposal would have an entirely different character to the main dwelling (which has already been twice extended to the rear), and would clearly read as being from the present day. Whilst I note the Council's concerns, I agree with the appellant in this instance that the design of an extension to an older building, especially one which is not listed, should, where appropriate, reflect the time in which it has been constructed and avoid pastiche, whilst at the same time being respectful of the existing historic fabric of the parent building and its setting.
10. Paragraph 7 of the Framework says new sustainable development should protect and enhance the historic environment, and paragraph 9 adds that pursuing sustainable development involves seeking improvements to the quality of the built environment, by replacing poor design with better design. In my view the design of the appeal proposal would achieve these objectives.
11. Indeed, the Council has approved other contemporary schemes within the conservation area including the much more visible extension to a listed building at No 7 the Butts and a new build development at No 1-3 Wharf Street, where a similar zinc roof has been used. My attention has also been drawn to a

proposal for a contemporary rear extension to a listed building in the conservation area at 8 Mill Street, which was recently allowed on appeal<sup>1</sup>.

12. The use of a zinc roof, modern aluminium framed windows, and a sedum roof above the flat roofed part of the kitchen extension, albeit used in a modern way, would in my view enable the architectural integrity of the main building to be respected and not compromised, particularly given its location in the less public rear garden environment where a wide variety of alterations and extensions to the original buildings can be found. However, I do have some concerns regarding the use of stack bonded grey bricks for the extension, as this would result in three different walling materials being used on the three exposed elevations of modest building. To my mind this could result in a somewhat confused appearance, and the elevated area of grey brickwork on the side elevation would relate awkwardly to renewed and new areas of render proposed on this elevation. Nonetheless, had the scheme been acceptable in all other respects, I am satisfied that approval of an appropriate material (and colour of the render) could have been dealt with by means of an appropriately worded planning condition.
13. The Council has stated that the proposal would result in the loss of 'important features' such as the curved relieving arch above the ground floor window. However, this arch would be retained, albeit internally, although I am not convinced it is a particularly important feature in any event.
14. On balance I am satisfied that the scheme would bring about an appropriate contemporary contribution in this setting. Although the extension would be unmistakably 'of its time', and would clearly be seen as a modern addition, I do not find this to be necessarily harmful *per se*. Given that it would be subservient to the main dwelling in terms of scale, and would be sited at the rear, I am satisfied that it would not detract from the character and appearance of this part of the conservation area. In terms of the setting of the adjacent listed building No 42 Chapel Street, the significance of this building and the terrace of which it forms a part derives mainly from its attractive, unified and little altered street elevation. In contrast, the rear elevations are of lesser significance, having been much altered over the years. In this context, I am satisfied that the setting of the building would be preserved.
15. Overall, I conclude on this issue that the proposal would preserve the character and appearance of the Warwick Conservation Area and the setting of No 40 Chapel Street. As such, I find no conflict with LP Policies DAP4, DAP8, DAP1, and relevant National policy in the Framework.

#### *Effect on living conditions*

16. This is a very constrained site with several dwellings in close proximity to each other, and as such the proposal would impact to varying degrees on the living conditions currently enjoyed by the occupiers of No 6 Priory Road and Nos 40 and 42 Chapel Street. LP Policy DP2 says development will not be permitted which has unacceptable adverse impact on the amenity of nearby residents. I have also taken into account the Council's adopted *Residential Design Guide* (SPD) and more detailed guidance on separation distances and the '45 degree rule' in the accompanying SPD leaflets.

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<sup>1</sup> Ref: APP/T3725/W/15/3003439 and APP/T3725/Y/15/3003437

17. No 6 Priory Road has one obscure-glazed window and a conventional window to the ground floor rear and two first floor windows. There would be conflict with the '45 degree rule' with respect to the closest ground floor window; although due to the angled line of the proposed first floor extension the 'rule' would not be breached at first floor level. I accept that the design has been duly considered to reduce the impact of the upper storey of the proposed extension (rather than contrived as suggested by the Council). However, although the existing outlook of No 6 is already restricted by the 2.0m high boundary wall and existing kitchen extension, the lower storey of the proposed extension would be built directly on the common boundary with No 6 to a height of about 2.9m. Consequently it would significantly worsen the existing situation and lead to an unacceptably oppressive outlook and loss of light in the small rear yard of No 6 (the only outdoor space for that property) and in the rear-facing ground floor room.
18. No 42 Chapel Street is positioned directly behind the appeal property, and the lower storey of the proposed extension would be located just 3.7m from its rear-facing ground floor window, and the upper storey would be 5.8m from the rear-facing first floor window when measured directly from the centre of the window. The adopted SPD recommends a separation distance of 12.0m where a two-storey dwelling would face the end elevation of a two-storey building, although clearly this cannot be achieved here as the existing kitchen extension is already only 3.7m away. Therefore, the only additional impact would arise from the additional built form at the upper storey where the separation distance would only be about 6.0m at best. I accept that the angled design and obscure-glazed window means there would be no direct overlooking. However, as a consequence of the added height and bulk of the proposed extension, I consider it would appear unacceptably overbearing and somewhat oppressive when seen from the rear-facing windows and small rear yard of No 42, and would also result in a significant loss of light to the yard and rooms served by the habitable room windows on that side.
19. No 40 Chapel Street has one ground-floor and one first-floor window (with balcony) facing towards the proposed extension. Although the Council says the proposal would breach the 45 degree rule at ground and first floor level, I am not convinced this is the case given that the existing kitchen extension already breaches the rule, and due to the angled design, the upper storey of the proposed extension appears satisfy the 45 degree rule. Therefore, whilst there would be some impact on the outlook and light levels to No 40, I am not persuaded that it would be materially harmful.
20. I accept that guidance in the SPD should respond to local considerations, and indeed the SPD categorically states that within conservation areas (where the overriding need is to preserve or enhance the character or appearance of the area), there will be considerable flexibility.
21. However, issues of overlooking, overshadowing, and loss of light will still be considered and even though guidance in the SPD should not be applied prescriptively, this is not a marginal case.
22. I therefore conclude on this issue that the proposed extension would materially harm the living conditions of the occupiers of No 6 Priory Road and No 42 Chapel Street with regard to loss of light and an oppressive outlook arising from an overbearing form of development. As such, it would conflict with LP Policy DP2 and advice in the SPD.

*Other Matters*

23. In relation to the impact on No 6 Priory Road, the appellant says if the site was outside the conservation area, a rear extension up to 3.0m high would be permitted development. Whilst this may be the case, it is not particularly relevant as I have to consider the cumulative impact of the proposed extension, including the upper storey. In any event, as the site *is* in a conservation area, it does not represent a fallback position

*Conclusion*

24. I have found that the proposal would preserve the character and appearance of the Warwick Conservation Area and the setting of No 40 Chapel Street, causing no harm to the significance of these heritage assets. However, for the reasons given above I consider the proposal would be materially harmful to the living conditions of the occupiers of No 6 Priory Road and No 42 Chapel Street. This represents a substantive and overriding objection which must be decisive. As such, the proposal would conflict with the policies in the development plan and the Framework taken as a whole. Therefore, for the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Nigel Harrison*

INSPECTOR