

Appeal Decision

Site visit made on 9 May 2017

by Paul Singleton BSc (Hons) MA MRTPI

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

Decision date: 30 May 2017

Appeal Ref: APP/T3725/W/17/3168903

Flat 2, 99 Upper Holly Walk, Leamington Spa, CV32 4JU

- 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 Robert Dover against the decision of Warwick District Council.
 - The application Ref W/16/1273, dated 8 July 2016, was refused by notice dated 5 December 2016.
 - The development is the addition of 1st floor fire escape and balcony.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The balcony has been erected and the application sought retrospective planning permission for this development.

Main Issues

3. The main issues are the effect on the character and appearance of the Royal Leamington Spa Conservation Area and on the living conditions of the occupiers of neighbouring dwellings with regard to loss of privacy.

Reasons

Conservation Area

4. The balcony to the appeal property can be seen from Campion Terrace but is visible only from the pavement on the west side of the street. The other potential views are screened by the two storey building at number 47 and the double garage to the side of that property. The available view is oblique rather than direct and is likely to be seen for a limited period as the viewer passes along the street. There is a more direct view from Holly Street but this is at some distance and, for most viewers, would be a transient view as they pass the end of the short cul-de-sac that gives access to the rear of the adjacent dwellings.
 5. Although visible from these public vantage points the balcony is not particularly prominent. Its glass construction allows an unobstructed view of the original brickwork to the rear elevation of the building and, due to the absence of any visible top rail or other structure, the balcony does not stand out as an obvious addition to that rear elevation. Although of contemporary design, its light and transparent form means that the balcony does not appear as an incongruous
-

feature in those available views. The door that has replaced a previous window at upper floor level looks slightly out of place but the Council accepts that this change could have been made without the need for planning permission.

6. The appeal site is located close to the boundary of the Royal Leamington Spa Conservation Area which covers a very extensive area including most of the town centre and the surrounding residential streets. The properties on Upper Holly Walk and Campion Terrace mostly comprise large villas and town houses which display high quality but quite varied architectural detailing to their front elevations. The various side streets are dominated by terraces of two storey housing of more uniform design and appearance. The street trees in Campion Terrace also make a major contribution to the distinctive character and appearance of the area.
7. Many of the houses in this part of the Conservation Area appear to have been extended or have undergone other alterations which have significantly changed the original appearance of their rear elevations. My observations on my site visit support the appellant's view that the rear elevations to these properties do not make a significant contribution to the special character and appearance of the Conservation Area.
8. Accordingly, I find that the addition of the balcony has not had a significant adverse effect on the character and appearance of the Conservation Area. The development does not, therefore, conflict with Policy DAP8 of the Warwick District Local Plan (2007) (Local Plan) which states that development will be required to preserve or enhance the character and appearance of conservation areas.

Living conditions

9. Some views into the rear gardens of neighbouring dwellings may have been possible from the original windows in the rear elevation of Flat 2 but these would have been limited by the position and restricted viewing angle of the viewer. That situation has materially changed as the occupiers now have access to a balcony that extends across the full width of the rear elevation of the building. Due to the separation distance access to the balcony does not significantly alter views into the rear of No. 45 Campion Terrace. However, it does bring the viewer much closer to the shared boundary with No. 47 and provide an elevated view into the rear garden to that property. Although partially obscured by the garage to the rear of No. 101 Upper Holly Walk the balcony also provides an elevated view of the rear garden to that property and the neighbouring dwelling to the east.
10. I consider that the development has resulted in increased overlooking of those gardens with a consequential loss of privacy for the occupiers of these neighbouring properties. That harmful effect on living conditions leads to a conflict with Local Plan Policy DP2 which states that development that has an unacceptable effect on the amenity of nearby residents will not be permitted. Although no objections have been received from the occupiers of the adjoining dwellings regard should be had to the need to protect both existing and future occupiers from the potentially harmful effects of such development.

Other Matters

11. The appellant contends that the development is intended to serve as a fire escape but no evidence has been submitted to demonstrate that a satisfactory means of escape could only be achieved in this manner. Although the addition of the balcony benefits the appellant this private benefit is not sufficient to outweigh the harm to the living conditions of the neighbouring residents or the resultant development plan conflict.

Conclusion

12. For the reasons set out above I conclude that the appeal should fail.

Paul Singleton

INSPECTOR