



Appeal Decision

Site visit made on 13 October 2020

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 November 2020

Appeal Ref: APP/T3725/W/20/3252062

Garage, 22 St Marys Terrace, Leamington Spa, Warwickshire CV8 1JT

- 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 Steven White against the decision of Warwick District Council.
 - The application Ref W/19/1949, dated 4 November 2019, was refused by notice dated 2 March 2020.
 - The development proposed is conversion of existing storage into residential dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: a) whether the proposed development would preserve or enhance the character or appearance of the Royal Leamington Spa Conservation Area (CA); b) the effect of the proposed development on highway safety; c) the effect of the proposed development on the living conditions of neighbours; and d) whether the proposed development would provide satisfactory living conditions for future occupiers.

Reasons

Character and appearance

3. The appeal site comprises a small plot of land which is occupied by two, single storey garages, used for 'builders storage'. These garages are located to the rear of properties in St Marys Terrace but are adjacent to and accessed off Waterloo Street. As such, they form part of the street scene along here and also form part of the CA.
4. The significance of the CA is largely derived from the architecture of its traditional and historic buildings which are in a range of scales and styles. These buildings individually and collectively contribute to the quality of the CA. Most notably, within the vicinity of the appeal site whilst there are some variations in property types and plot configurations, the prevailing character and appearance of the street scene is dominated by two storey Victorian terraces with rear amenity areas. These include regular forms and plot configurations along with attention to fenestration designs and detailing. Collectively, these achieve a degree of uniformity to the street scene and a distinct pattern of development. Thereby making a positive contribution to the character and appearance of the CA.

5. The existing garages are modern additions and not of any notable architectural merit. Nevertheless, they are settled within the street scene and are not uncommon for the area. Therefore, these make a neutral contribution to the significance of the CA.
6. In contrast and regardless of some attention to materials, the proposal would introduce a detached dwelling without a garden, which in part would be immediately adjacent to the boundaries of neighbouring properties. Moreover, due to its irregular floor plan, the resulting form of the building would be atypical. Along with this, its fenestration would not reflect the vertical emphasis and detailing to windows in the adjoining terraces. Therefore, cumulatively, due to its form, layout and design, the proposed dwelling would appear contrived and would not reflect the prevailing character and appearance of the adjacent terraces. The proposed development would therefore reflect poor design and would appear incongruous.
7. For the above reasons, the proposed development would harm the character and appearance of the area and the significance of the CA. Given that the appeal site makes a neutral contribution to the CA, the harm the proposal would cause to the significance of the CA would be less than substantial.
8. Consistent with Policy HE1 of the of the Warwick District Local Plan 2011-2029 (LP), Paragraph 196 of the National Planning Policy Framework states that where a proposal would lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal. Although there is a suggestion that the redevelopment of the appeal site would reduce car journeys, there is no substantive evidence to support this and while a financial contribution towards a community facility has been suggested, no such requirement has been identified by the Council. Therefore, I attach little weight to such perceived environmental benefits.
9. Furthermore, I have seen no evidence that there is a particular shortfall of houses of the size proposed. Nonetheless, the proposal would deliver an additional dwelling for the district but given its modest scale (single unit), the benefits derived from this would be limited.
10. Having special regard to the desirability of preserving or enhancing the character or appearance of the CA¹, despite finding the harm to be less than substantial, I still attach significant weight to this. Such harm can be outweighed by public benefits. Having given limited weight to the public benefits identified in this instance, they are not sufficiently forceful to outweigh the less than substantial harm that I have identified.
11. Drawing on the above reasons, the proposed development would fail to preserve or enhance the character or appearance of the CA and would be contrary to Policy BE1 of the LP which amongst other things states that development will only be permitted which positively contributes to the character and quality of the environment through good layout and design. I also find conflict with Policy HE1 of LP.

¹ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

Highway safety

12. The proposal generates the requirement for a single off-road parking space but does not include any provision for on-site car parking. Notwithstanding this, the Council suggest that the proposal could be acceptable if a parking survey demonstrates that there is capacity on-street to accommodate the additional parking requirement.
13. Waterloo Street benefits from unrestricted parking and the appellant has provided photographs taken on the 16 April 2020. Although these only provide a snapshot of activity during the day, they were taken during an enforced lockdown period where the number of people staying at home during the day would have been markedly higher than usual. Despite this, there is availability of on-street parking near the appeal site. This is also consistent with my observations.
14. More significantly, the appellant is willing to replace the existing dropped kerb access to the garages with a standard height kerb. This would create an additional on-street parking space outside the property, these works could be secured by a condition, if the appeal were to succeed.
15. Drawing on the above factors, in this case, the lack of a single parking space is unlikely to result in parking stress, to the detriment of highway safety. As such, the proposal would not be in conflict Policy TR3 of the LP which amongst other things states; development will only be permitted that makes provision for car parking that does not result in on-street parking detrimental to highway safety.

Living conditions - neighbours

16. In assessing the proposal and its effects on neighbours, the main parties have referred to the Warwick District Council, Residential Design Guide (Design Guide). Amongst other standards, this includes applying the 45° line assessment in considering harm on daylight and outlook. Although the Design Guide advises that breaches of the 45° line which occur at a distance of 8m or more will generally be considered not to result in material harm to light and outlook, it also states that 'Individual site circumstances will, however continue to be taken into account and the application of the 45° guideline will not necessarily be the overriding consideration.' I have therefore also had regard to site-specific circumstances.
17. Although the rear facing windows and gardens associated with properties 20, 22 and 24 St Marys Terrace to a lesser or greater extent have an outlook towards the flank elevation of 2 Waterloo Street, this is beyond the existing garages at the appeal site. In contrast, the proposal would introduce a two-storey building, immediately to the rear of the modest gardens associated with these properties. Furthermore, its rear elevation would predominantly comprise a large expanse of brickwork, with minimal articulation. As such, the new dwelling would have a particularly dominant and enclosing effect on the rear facing windows and gardens associated with these properties. Despite the lack of objection from 22 and 24 St Marys Terrace to the proposal, in my view this arrangement would significantly worsen the outlook for present and future occupiers of the aforementioned properties.
18. In respect of daylight, due to the limited height of the boundary wall along Waterloo Street, properties 22 and 24 St Marys Terrace, benefit from a

reasonable degree of daylight, throughout the year. On the evidence before me, daylight received to the rear facing glazed doors and windows serving habitable rooms at 20 St Marys Street is already affected by its own two-storey outrigger and a similar outrigger at 18 St Marys Terrace. In this context, the proposed two-storey dwelling would not appreciably reduce daylight to these properties.

19. Having concluded that the lack of on-site parking for the development would not cause parking stress, it therefore follows that this would not inconvenience neighbours.
20. Nevertheless, for the above reasons, the proposed development would harm the living conditions of neighbours in respect of outlook, contrary to Policies BE1 and BE3 of the LP. Together, these state that development will only be permitted which positively contributes to the character and quality of the environment through good layout and design, and that development which has an unacceptable adverse impact on the amenity of nearby uses and residents will not be permitted.

Living conditions – future occupiers

21. The Council's Design Guide sets out a requirement of 40sqm of outdoor private amenity space for a one-bedroom dwelling. There is no provision for outdoor private amenity space for the new dwelling.
22. Although the appellant suggests that a communal space could be negotiated with neighbours or a contribution towards public amenity space agreed, in the absence of any mechanisms to secure these or the Council's agreement, these suggestions are of no relevance. In any event, these would not be a reasonable atonement for the failure to provide any outdoor private amenity space directly associated with the dwelling itself. The lack of outdoor private amenity space would seriously undermine the overall quality of the proposed dwelling as a living environment.
23. The proposed development would therefore offer unsatisfactory living conditions for its future occupiers, contrary to Policy BE3 of the LP, which amongst other things requires that new developments provide acceptable standards of amenity for future occupiers of the development.

Other matters

24. I have insufficient information in respect of a contemporary building adjacent to the nearby Saint Marys Church, to draw any meaningful comparisons or conclusions. The dwelling to the rear of properties 28 and 30 Waterloo Street is a bungalow with amenity space and on-site parking. Therefore, it is not directly comparable to the scheme before me. In any event, each application is determined on its merits.
25. Given the harm to the significance of the CA, the living conditions of neighbours and the failure of the scheme to provide any private amenity space for future occupiers, the site's redevelopment, as proposed, would not be of an appropriate manner which justifies a relaxation of normal standards, as advocated in the Design Guide.

26. I have taken account of the support for the proposal. However, this does not outweigh the harm I have already identified and the overall conflict with the development plan.

Conclusion

27. I have found that the proposal would not harm highway safety. On the other hand, the proposed development would fail to preserve or enhance the character or appearance of the CA and would harm the living conditions of neighbours. It would also fail to provide satisfactory living conditions for its future occupants. For these reasons and the overall conflict with the development plan, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR