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## Appeal Decision

Site visit made on 12 July 2021 by Darren Ellis MPlan

**Decision by Chris Preston BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6 September 2021**

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**Appeal Ref: APP/T3725/W/21/3271132**

**62 Brunswick Street, Leamington Spa, CV31 2EG**

- 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 NJS Investments Ltd against the decision of Warwick District Council.
  - The application Ref W/20/1415, dated 9 September 2020, was refused by notice dated 23 November 2020.
  - The development proposed is described as a second floor extension to the existing property to form 2no new flats, extension to HMO on first floor, extension to shop on ground floor.
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### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Procedural Matter

3. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework (the Framework). Accordingly, and in light of the reference made to the previous iteration of the Framework within the submitted evidence, the parties have been provided with a further opportunity to make submissions in respect of the publication. Any comments which have been received have been addressed within the appeal decision.

### Main Issues

4. The main issues are:
    - the effect of the proposed development on the character and appearance of the appeal property and street scene; and
    - whether the proposal provides adequate private amenity space for the future occupiers of the flats, or whether there is sufficient mitigation for any lack of provision of private amenity space.
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## **Reasons for the Recommendation**

### *Character and appearance*

5. The appeal site consists of a large detached two-storey building on the corner of Brunswick Street and Shrubland Street. The building has a retail unit on the ground floor and a seven-bed House in Multiple Occupation (HMO) in the first floor and roof space. The surrounding area is predominantly residential with a small number of retail units and a public house in close proximity to the appeal site.
6. The appeal property has had a number of extensions to the building which have resulted in a disjointed appearance to the building, particularly to the side elevation facing Shrubland Street. A previous planning application, for a similar but larger proposal for second floor extension to the existing property to form 2no. additional two bedroom flats, was refused and dismissed at appeal in 2018<sup>1</sup> on the grounds that the proposal would create an incongruous and overly dominant building which would cause harm to the street scene.
7. While the front part of the appeal property would remain two-storey in appearance, the rear-part of the building would be increased in height. When viewed from the front elevation this upwards extension, including an increase in the height of the eaves, would give the appearance of a three-storey building. Moreover, the north-side elevation facing Christine Ledger Square would see the height of the eaves increased even further and windows inserted at the second-floor level. Given that the properties immediately adjacent and to the north of the appeal site along Brunswick Street are two-storey buildings, and the properties to the rear of the appeal property along Shrubland Street are a mix of single and two-storey buildings, the proposal would result in a building that is considerably at odds with the scale of the surrounding properties.
8. The mix of two, two-and-a-half and three storey elements and varying eaves heights would result in a confused and cramped appearance to the property. Furthermore, the proposed eaves height of the north-side elevation facing Christine Ledger Square would result in a roof slope that is much smaller in scale than the other roof slopes and as such would be substantially out of proportion to the other roof slopes.
9. Although the proposal seeks to remedy the presently disjointed appearance of the building, any benefit in terms of greater uniformity in appearance would be outweighed by the harm caused as a result of the overall scale and form of the extension which would be discordant with the street scene and would detract significantly from the character and appearance of the area. Furthermore, if the appellant wishes to improve the external appearance of the existing structure I find it likely that such improvements could be achieved without the need for a development of the harmful scale proposed in this instance.
10. Notwithstanding the slightly reduced scale of the proposal compared to the previous appeal scheme, the overall bulk and massing would have a harmful effect and would not respect the form and massing of neighbouring buildings.
11. I note that Maurice Mead Court opposite the appeal property, on the other corner of Brunswick Street and Shrubland Street, is a three-storey building.

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<sup>1</sup> Planning application ref. W/18/0110, Appeal ref. APP/T3725/18/3204203

However, this is a purpose-built block of flats of uniform appearance while the appeal property is a mixed use two-storey building that has gradually been extended. Moreover, given the layout of the properties, when viewed in the street the appeal property relates more closely to the two-storey dwellings that are immediately adjacent to the appeal site, as noted by the Inspector in the previous appeal. In any event, the three storey block is an imposing and somewhat featureless building that itself appears out of kilter with the prevailing pattern of two storey development in the vicinity. I am not satisfied that it represents an example of good design or appropriate scale that should set a precedent for a substantial increase in the scale of the building at the appeal site.

12. Reference has been made to other local buildings that have been substantially remodelled. However, it is not the principle of redevelopment or altering the appearance of the existing building that is at issue, but the scale and appearance of the appeal proposal itself.
13. For these reasons, I conclude that the proposal would be harmful to the character and appearance of the area in conflict with policy BE1 of the Warwick District Local Plan (September 2017) (LP) and policy RLS4 of the Royal Leamington Spa Neighbourhood Development Plan (June 2020) (NDP), which both seek to ensure that development positively contributes to the character of the locality and respects surrounding buildings in terms of scale, height, form and massing. The proposal would also be contrary to the requirement for good design set out within chapter 12 of the Framework, including paragraph 134 which states that proposals of poor design should be refused, especially where they fail to reflect local design policies.

#### *Private amenity space*

14. Section 5 of the Warwick District Council Residential Design Guide (May 2018) (RDG) states that a minimum of 10 square metres of outdoor private amenity space should be provided for each flat or apartment in a development. It further states that in situations where this standard cannot be achieved, such as this appeal proposal and other high density housing developments, a provision may be agreed to upgrade a nearby off-site amenity space.
15. Email correspondence between the Council and the appellant during the original application shows that the appellant is prepared to make the necessary contribution for the upgrade of a nearby amenity space, although the Council states that there is no mechanism to secure this contribution.
16. Despite the appellant's assurances, in the absence of any formal agreement between the parties it is unclear how such funding would be secured, where or how the funding would be used, or how that would mitigate the harm arising from the cramped and sub-standard amenity space for prospective residents. Accordingly, I conclude that the proposal fails to provide adequate private amenity space for the future occupiers of the flats. The proposal therefore fails to accord with policy BE3 of the LP, which requires development to provide acceptable standards of amenity for future users and occupiers of the development. In that regard, the proposal would also be contrary to paragraph 130(f) of the Framework which identifies that planning decisions should ensure a high standard of amenity for existing and future occupiers.

17. The appellant makes reference to the Warwick District Council Public Open Space Supplementary Planning Document, which states that contributions towards public open space are only required for developments of 11 or more dwellings. However, this is a different document to the RDG, which does not specify any exemptions to contributions of private amenity space.

**Other matters**

18. I recognise that the proposal would provide economic benefits to the existing shop in terms of increased custom. However, those benefits would be small in scale and would not outweigh the significant harm that has been identified in relation to the main issues.

**Conclusion and recommendation**

19. The proposal would be contrary to the relevant policies of the development plan and the requirements of the National Planning Policy Framework in respect of the two main issues. That harm is not outweighed by the minor benefit to the retail store. Having had regard to all matters raised, I find that there are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I recommend that the appeal should be dismissed.

*Darren Ellis*

APPEAL PLANNING OFFICER

**Inspector's Decision**

20. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall dismiss the appeal.

*Chris Preston*

INSPECTOR