



Appeal Decision

Site visit made on 17 August 2023

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 11th September 2023

Appeal ref: APP/D1590/W/22/3311297

11B Palmeira Avenue, Westcliff-on-Sea, SS0 7RP

- 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 Nigel Whistler against the decision of Southend-on-Sea City Council.
 - The application Ref 22/01449/FUL, dated 15 July 2022, was refused by notice dated 6 October 2022.
 - The development proposed is erect first floor rear extension (retrospective)
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The application form described the proposed development as "The 1st floor extension which is built on an existing small balcony will connect to the existing surface water system". The council changed this to the description used in the heading above, as did the appeal form. I have adopted it as it more clearly identifies the development proposed.

Main Issue

3. The main issue in this case is the effect of the enclosed balcony on the character and appearance of the building and that of the Leas Conservation Area.

Reasons

4. The appeal site is an end of terrace three storey property on the eastern side of Palmeira Avenue. The property has been divided into 3 flats with this appeal relating to the first floor flat. To the rear of the appeal dwelling is a two-storey part-width outrigger with a balcony over. The balcony belonging to the first floor flat has been enclosed. Rear balconies are a characteristic feature of the immediate rear facades of this terrace. The site lies within the Leas Conservation Area.
5. Section 72(1) of the Planning and Listed Building and Conservation Areas Act 1990 states that special attention should be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Policy DM5 of the Development Management Document states any new development that affects a heritage asset will be required to conserve and

- enhance its historic and architectural character, setting and the townscape value.
6. Paragraph 199 of the National Planning Policy Framework (the Framework) states *"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance"* Paragraph 202 of the Framework states *"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."*
 7. Since the appeal development is at the rear of the building, it is not seen from Palmeira Avenue; nor can it be seen from the roads that run to the east of the property. Whilst there is an intrinsic public interest in maintaining the quality of buildings in a conservation area, in addition there are many properties that have windows which overlook the rear of Palmeira Avenue, together with neighbours' views. Whilst these are not views from the public domain, the occupants of these properties will have sensitivities and their private views amount in total to an additional public interest.
 8. The appeal site is part of a Victorian/Edwardian terrace of 3 storeys and naturally, over time, there have been additions and alteration to the rear facades. Nevertheless, there remains an integrity to the buildings that demonstrates their original character and features. The appeal balcony is a feature that deserves care with regard to any alteration to its form and character.
 9. The appeal development has enclosed the balcony with a box like structure with a white finish, stated on the application form to be a rendered finish, relieved only by a relatively small and modern window. It has no satisfactory relationship with the form, style or texture of the surroundings. It is an unsympathetic and incongruous feature to the detriment of the character and quality of the exterior of the dwelling, and harms the character and appearance of the terrace. Effectively the balcony has been lost, at least in visual terms, and replaced by a poorly designed enclosure.
 10. It will be seen from the above that I disagree with the appellant whose contention is that it is a sensitively designed rear extension, having an acceptable impact on the character and balance of the property, and making use of appropriate materials, fenestration, proportions and detailing. I can appreciate that the flat may have been in a derelict condition at the time of purchase and that the appellant has made improvements since then. However, this does not include the work done on the balcony, which I cannot agree represents a high-quality, well-designed development. I have also noted what is said about a third party's extension, but that is not a matter that is before me.
 11. I have noted the paragraphs of the Framework that have been referred to in the appeal statement, the most material ones being 126 and 130 which refer to good design and visually attractive architecture, sympathetic to local character and history. However, the appellant makes no reference to section 16 of the Framework that deals with 'Conserving and enhancing the historic

environment'. Within this it is stated that heritage assets range from sites and buildings of local historic value to those of the highest significance. Of course, the appeal building is within the first of these categories, and the effect of the extension on the terrace amounts to, in the words of this section of the Framework, less than substantial harm. Indeed, it is minor harm, but harm it is and that should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Framework paragraph 202). In this case, there are no public benefits, and whilst from the appellant's point of view it may be securing its optimum viable use, that consideration is insufficient to outweigh the harm.

12. For the reasons that I have given, I will dismiss the appeal.

Terrence Kemmann-Lane

INSPECTOR