The Planning Inspectorate

Appeal Decision

Site visit made on 27 June 2023

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29.09.2023

Appeal Ref: APP/T3725/D/23/3316863
50 Russell Terrace, Leamington Spa, Warwickshire CV31 1HE

- 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 & Mrs Bain against the decision of Warwick District Council.
- The application Ref W/22/1593, dated 3 October 2022, was refused by notice dated 14 December 2022.
- The development proposed is erection of single storey rear and side extensions and removal of chimney.

Decision

1. The appeal is allowed and planning permission is granted for erection of single storey rear and side extensions and removal of chimney at 50 Russell Terrace, Leamington Spa, Warwickshire CV31 1HE in accordance with the terms of the application, Ref W/22/1593, dated 3 October 2022, subject to the following conditions:

   1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

   2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1072-01 Rev A; 1072-03 Rev A; and 1072-04.

   3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

2. The main issue is the effect of the proposed rear extension upon the living conditions of the occupants of 48 Russell Terrace with regard to outlook as well as daylight and sunlight.

Reasons

3. 50 Russell Terrace is a semi-detached property and No. 48 is the attached dwelling. Both dwellings have a two-storey rear outrigger, and this has created a courtyard between it and the rear of each dwelling. Both dwellings have deep gardens and given the orientation of the two properties the rear of the houses receive both daylight and sunlight throughout most of the day. Between the two dwellings is a fence that is approximately 1.8 metres(m) tall, and this does partly enclose the outlook from the rear window at No. 48.

4. The proposed single storey extension would infill the courtyard at No. 50 and would extend approximately 3m from the rear elevation but no further than the

rear two storey outrigger. The closest window on the ground floor of No. 48 serves a bedroom and opposite the proposed extension is a window that serves the kitchen; however, this is not the only window that serves this room.

5. The Warwick District Council Residential Design Guide (RDG) sets out the '45 Degree Guideline' for applications which have an effect upon adjoining residential accommodation. The intention of this is to ensure that proposals would not have an unreasonable effect on the neighbouring property by reason of loss of daylight or sunlight and by creating an unneighbourly overbearing effect. It is not disputed by the two parties that the rear extension would partly contravene this line when the 45-degree guideline is taken from the nearest window at No. 48. However, the RDG does state that individual site circumstances would be taken into account and the guideline should not necessarily be the overriding consideration.

6. The bedroom has a glazed patio door that is bound by windows either side as well as above. As a result, this room receives ample daylight and sunlight throughout most of the day. The two properties are relatively wide and as such, the rear outrigger at No. 50 is not particularly visible from this room and does not appear overbearing. This is partly due to the limited depth of the outrigger and its set back from the window.

7. The proposed flank wall of the extension would be approximately 2m tall along the shared boundary and would extend up towards the house with a mono pitched roof. The rear extension would extend to around the same depth as the rear outrigger along the shared boundary and would only be slightly taller than the existing boundary fence. Given the location of the proposed extension there would be a loss of sunlight to this window, however given the limited height of the extension this would only be for a limited time. As a result, the room would not become gloomy or overshadowed by the proposal. Similarly, the limited height of the extension and the mono pitched roof would ensure that both daylight and sunlight would reach the kitchen window that faces the proposed extension.

8. The rear extension would be built close to the bedroom window and as a result, the extension would partly enclose the outlook from it. However, No. 48 has a deep garden and as a result the proposed extension would only extend a relatively short distance into the garden. The proposed flank wall along the shared boundary would only be slightly taller than the existing boundary fence and the mono pitched roof would slope away from No. 48. Furthermore, the outrigger to the rear of No. 48 is also relatively shallow and these factors would ensure that the development would not enclose the rear bedroom to the point where it would have an unneighbourly overbearing effect.

9. The outlook from the kitchen window is currently the flank wall of the two-storey rear outrigger. The proposal would bring the flank wall of No. 50 much closer to this window. However, given the limited height of the extension and because this window is not the only window serving the kitchen, the outlook enjoyed from this room would not be significantly diminished.

10. Therefore, the proposed rear extension would not harm the occupants of No. 48's living conditions and the proposed development would comply with Policy BE3 of The Warwick District Local Plan 2011 – 2029 which states that development will not be permitted that has an unacceptable adverse impact on the amenity of nearby uses and residents. The proposal would also generally be

in accordance with the RDG insofar as the individual site circumstances indicate that the proposals would not have an unreasonable effect upon the neighbouring occupants' living conditions.

Other Matters

11. The site is located within the Royal Leamington Spa Conservation Area (CA). As such I have a duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to ensure special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the CA.

12. There is no suggestion that the appeal proposal would result in harm to either the character or the appearance of the CA. Given the modest scale of the extensions, their siting to the side and rear of the property, and as the larger and more prominent of the chimneys would be retained, I am satisfied that no harm would result.

Conditions

13. Further to the statutory commencement condition it would be necessary in the interest of certainty that the development is carried out in accordance with the approved plans. I have imposed a condition requiring that the external surfaces of the development match those of the host building to ensure that it would preserve the character and appearance of the property and the CA.

Conclusion

14. For the reasons give above, having had regard to the development plan as a whole, I conclude that the appeal should be allowed.

G Sibley

INSPECTOR