



Appeal Decision

Site visit made on 21 December 2023

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2024

Appeal Ref: APP/T3725/W/23/3323869

Garage, 22 St Mary's Terrace, Leamington Spa, Warwickshire CV31 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/23/0445, dated 23 March 2023, was refused by notice dated 31 May 2023.
- The development proposed is conversion of existing B8 storage into residential dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council advised that refusal reason 4 relating to parking was included on the decision notice in error, contrary to the conclusions on that matter in the Council's officer report. Further, that the Council would not be defending that reason for refusal at appeal. Therefore, the main parties are in agreement on that matter. I have determined the appeal on that basis.
3. A revised National Planning Policy Framework (Framework) was published on 19 December 2023. Insofar as it is relevant to the matters at hand in this appeal, the Framework is consistent with the previous iteration. References to the Framework in this decision are to the new paragraph numbers.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the living conditions of the occupants of 20 St Mary's Terrace (No 20) with regard to outlook, and the occupants of 22 and 24 St Mary's Terrace (Nos 22 and 24) with regard to access to private outdoor space; and
 - whether the proposal would preserve or enhance the character or appearance of the Royal Leamington Spa Conservation Area (the Conservation Area).

Reasons

Outlook

5. Views from ground and first floor habitable rooms at No 20 will already be constrained to a certain extent by the presence of existing built form. This includes its own two-storey outrigger, the low rise appeal building at the rear of

its garden, and the side elevation of the two storey terrace (2 Waterloo Street). Nonetheless, the current appeal buildings are single storey with unobtrusive roof lines that slope away from the boundary of No 20. Moreover, there is a reasonable degree of set back between No 20's rear elevation and 2 Waterloo Street.

6. Whereas, the proposal would result in a noticeably taller, vertical brick wall right at the rear garden boundary of No 20. The degree of set back of that wall from habitable room windows at No 20, said to be 11m, would therefore be limited. Consequently, from those rooms, and even with the proposed design which slopes down somewhat towards the rear of the appeal building, the proposed built form would appear oppressive.
7. Furthermore, from the garden of No 20, the perpendicular layout of the existing appeal buildings and their pitched roofs provides a V-shaped gap. This affords visibility from the garden through to Waterloo Street. Given the modest size of No 20's garden, this provides an important sense of space and openness for its occupants.
8. Whereas, the appeal scheme would extend to two storeys along its frontage on Waterloo Street. Consequently, from the garden of No 20 the proposal would appear as a substantial L-shaped building, largely enclosing the garden on two sides. This would result in a noticeable reduction in views through to Waterloo Street. Moreover, given the limitations on space within the garden at No 20, the proposed built form right up to the garden boundary would unacceptably curtail their current sense of space.

Garden space

9. The proposal would remove the ability of the occupants of Nos 22 and 24 to enjoy time in their private gardens. They would also lose the ability to use the space for day to day tasks such as the drying of clothes. In an area where such terraced houses typically have access to even a relatively small area of private outside space, this would unacceptably harm their living conditions. No substantive evidence before me indicates otherwise. Moreover, the presence of some other houses in the vicinity with garden sizes smaller than that recommended in the Council's Residential Design Guidance SPD (May 2018) (SPD) does not justify allowing a proposal that would result in the occupants of two houses being without private garden space.
10. Matters of land acquisition are not for consideration within this appeal. However, no robust evidence is before me to indicate that in the event of the appeal not succeeding, a change of use of the rear gardens of Nos 22 and 24 to use by the occupants of the commercial appeal buildings would be realistic prospect. Therefore, this does not alter my reasoning here.

Conclusions on living conditions

11. On the evidence before me I am not persuaded that the proposal would unacceptably reduce light levels in habitable rooms at No 20. Nonetheless, the proposed development would unacceptably harm the living conditions of the occupants of No 20 with particular regard to outlook. It would also unacceptably harm the living conditions of the occupants of Nos 22 and 24 with regard to access to private garden space.

12. Consequently, the proposal would conflict with Policy BE3 of the Warwick District Local Plan 2011-2029 (September 2017) (Local Plan) which generally seeks to avoid unacceptable impacts on the amenity of neighbouring occupants. It would also conflict with paragraph 135 of the Framework. This seeks to achieve a high standard of amenity for existing and future users. Similarly it would conflict with the recommended separation distance for such proposals of 12m as set out in the SPD (Annex D). Also, with its advice that all dwellings should be provided with private outdoor amenity space (page 25).

Conservation Area

13. The statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Meanwhile, paragraph 205 of the Framework also advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation.
14. The Conservation Area covers the town centre and surrounding neighbourhoods and therefore includes a mix of commercial and residential uses. Insofar as it is relevant to this appeal, the significance of the Conservation Area primarily derives from its historic development as a spa town, its range of period properties and the planned layout of its villas and terraced streets.
15. The appeal site is located in an area with a mix of housing types, including traditional terraced housing, more modern flats, semi-detached houses and some discreet development of rear gardens. Notwithstanding the modern flats opposite, the appeal site is largely viewed in the context of the traditional terraced housing that adjoins its boundaries on both sides. The terraced housing creates a strong building line, positioned close to the road edge, with limited gaps between terraced blocks.
16. This traditional housing form, with modest rear gardens, extends along much of the western side of Waterloo Street and some of its eastern side. It is consequently prominent in the street scene and forms the overriding character of the locality. There is some variation in architectural detailing, materials and roof treatment within the terraced buildings. Nevertheless, there is overall a pleasing consistency of form which makes a positive contribution to the character and appearance of the Conservation Area.
17. The existing site contains two single storey buildings. Whilst relatively modern in design, their low rise, brick built design is unobtrusive in the street scene and allows views from Waterloo Street to the rear elevations of terraced housing on St Mary's Terrace. Moreover, given their limited scale and the mix of commercial and residential uses within the Conservation Area, I see no reason to conclude that the commercial use of the appeal buildings is harmful to the significance of the Conservation Area. Consequently, the existing appeal buildings have a neutral effect on the Conservation Area.
18. The proposed dwelling would match the height and general form of the neighbouring house at 2 Waterloo Street. However, whilst its frontage would be of a similar width to No 2, it would be a detached dwelling, at odds with the characteristic terraced housing here. This would be highly visible on entering the street from St Mary's Terrace. Its uncharacteristic design would be

emphasised by the angled elevation to the right of its front façade, with windows at ground and first floor level on that return.

19. Furthermore, the proposed use of the gardens for Nos 22 and 24 as a side garden for occupants of the appeal scheme would be contrary to the prevailing pattern of terraces with rear gardens. Consequently, the proposal would result in the loss of this characteristic feature at a prominent location on Waterloo Street.
20. There are examples of infill housing in the locality, such as between Nos 28 and 30 Waterloo Street. However that development is unobtrusive in the street scene, being low rise and set behind those dwellings. I note also that 2 Waterloo Street occupies a triangular parcel of land. Nevertheless, that house is of an uncomplicated design that appears generally in keeping with its adjoining neighbour. Consequently, it is not noticeably contrary to the pattern and form of development in Waterloo Street. Whereas, for the reasons given, the proposal would be.
21. Therefore, the proposal would not preserve or enhance the character or appearance of the Conservation Area. Given the scale of the proposal, the level of harm to the Conservation Area would be less than substantial. In such circumstances this harm should be weighed against the public benefits of the proposal.
22. The proposal would provide a single private dwelling in the town which would contribute to the supply of housing. It could also be constructed to high environmental standards, which would form a public benefit in environmental terms. Furthermore, the construction of the dwelling would provide short term benefits to the local and wider economy; and the occupants would be likely to stimulate consumer spending, boost local labour supply and help to support local services, which would all constitute benefits in social and economic terms.
23. I also recognise that the proposal could be said to make more efficient use of the site. However, the Framework is clear that making efficient use of land should include taking into account the desirability of maintaining an area's prevailing character and the importance of securing well-designed, attractive and healthy places. Evidence that the commercial use of the appeal buildings is harmful to the living conditions of neighbours or the character and appearance of the area is not persuasive. Therefore the removal of that use would be neutral rather than a public benefit.
24. Accordingly, even if demand for one bedroom homes is considerably higher here than for larger homes, the modest public benefits of the proposed single dwelling do not outweigh the great weight to be given to the less than substantial harm that I have identified.
25. Consequently, the appeal proposal would fail to satisfy the requirements of the Act and the Framework. It would also conflict with Policy H1 of the Local Plan which supports housing in urban areas, except where it would harm the character of the existing street. It would conflict with Policy HE1 of the Local Plan which requires that less than substantial harm to the significance of a designated heritage asset is weighed against the public benefits. It would further conflict with Policy BE1 of the Local Plan which generally seeks to ensure proposals achieve good design.

26. Similarly, it would conflict with Policy RLS3 of the Royal Leamington Spa Neighbourhood Plan (2019). This seeks to avoid loss of residential gardens and adverse impacts on neighbouring occupants. Although not referenced on the Council's decision notice, conflict with this policy was referenced in the Council's officer report. Albeit even without consideration of this policy, the proposal conflicts with the Local Plan. The proposal would also be contrary to the Council's Residential Design Guide SPD which generally seeks to ensure proposals respect their surrounding context (section 6).

Other Matters

27. There may have historically been a bakehouse on the appeal site, indicating that some form of two storey building was previously considered acceptable on part of the appeal site. However that building is no longer in situ. Therefore, whether or not the effects of that building on neighbour's living conditions and the surrounding area were acceptable, I have found that harm would arise from the current proposal. As such it does not alter my reasoning.
28. Evidence of other houses in breach of the Council's SPD separation guidance, such as between Nos 10 and 12 Waterloo Street, does not justify allowing a scheme that would result in unacceptable harm to the living conditions of existing occupants here. That the proposal would provide sufficiently spacious living accommodation for its future occupants is a neutral consideration.
29. A letter of support for the proposal was submitted to the Council. However, given the harm I have identified, a limited degree of public support does not justify reaching different conclusions on the main issues.

Conclusion

30. Therefore, and having regard to all other matters raised, the appeal should not succeed.

Rachel Hall

INSPECTOR