

Appeal Decision

Site visit made on 21 August 2024

by C Billings BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 October 2024

Appeal Ref: APP/T3725/W/24/3338225

**Basement, 97 Clarendon Street, Leamington Spa, Warwickshire
CV32 4PF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Patrick O'Sullivan against the decision of Warwick District Council.
 - The application ref is W/23/0472.
 - The development proposed is conversion of basement to form one-bedroom apartment (C3 use) and associated excavation works to front of property to provide new private amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal concerns the basement of No 97 Clarendon Street (No 97), which I saw during my site visit had been converted to a one bedroom apartment, with a bathroom and kitchen fitted, although it was not occupied at that time. I also observed that the proposed lightwell and other proposals to the property frontage had not been carried out.
3. The appeal site is located within the Leamington Spa Conservation Area. In reaching my decision, I have had regard to the statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the host property and the surrounding area, including whether the character or appearance of the Leamington Spa Conservation Area (CA) would be preserved or enhanced; and,
 - whether the proposal offers acceptable living conditions for future occupiers, having regard to outlook, light and internal living space.

Reasons

Character and appearance

5. The boundaries of the CA encapsulate a relatively large portion of the urban area of Leamington Spa, a historic town that has evolved over many centuries and has historic links to spa waters. According to the Council's Conservation Area Guide (CAG) document, the development of the town boomed from the early 19th century up until the mid-1830s. The layout of streets and buildings fronting them are largely from the Regency period and reflective of the town's growth as a fashionable spa resort. The built form, historic evolution and coherent architectural detailing and materials are all elements that underpin the special architectural and historic interest of the CA and make a positive contribution to its character and appearance.
6. Clarendon Street is located toward the eastern edge of the CA, and for the purposes of the Council's CAG is in Area 31, which was developed in the 1830s and is distinguished by largely two storey rendered terraced houses. Notwithstanding some difference in the building scale and style along Clarendon Street, a degree of consistency is provided by the strong building line, use of materials and simple Classical proportions. While I observed the front boundary treatments of some properties have either been lost or subject to change over time, there is a distinctive use of low walls, and front area railings, some to frontage lightwells, which provide definition along the street. These are therefore elements that make a positive contribution to the local townscape and to the character and appearance of the CA as a whole.
7. No 97 is a mid-terrace rendered town house, comprised of two storeys plus attic and basement. It is not locally nor statutory listed, and unlike other properties within the terrace, its string course has been removed and it has a mansard roof addition. The front area railings may not be original. Nevertheless, in terms of its overall age, form, and boundary treatment, including frontage lightwell and extant area railings, No 97 forms part of the built backcloth of the CA and makes a positive contribution to the character and appearance of the area and to the significance of the CA as a whole.
8. The proposal would extend the existing basement lightwell area of No 97 by more than double. Seen against the current context and character of the locality, the proposal would form an uncharacteristically large lightwell area and weaken the consistency of front boundary treatments that are a defining feature along Clarendon Street. Moreover, the proposed changes to the frontage of No 97 would compound the anomalous appearance it has in the context of its surroundings and cause it to appear uncomfortably out of place.
9. None of the railings put to me are usefully comparable to the proposal before me in terms of their position relative to the property, nor size of the lightwells they surround. There is no convincing evidence to indicate that the frontage lightwell at No 97 was historically larger, as the appellant suggests. While the number of surviving metal railings locally may be limited, and that many have been removed or altered, fundamentally, the proposed development would cause No 97 to stand out and not be in keeping with the Clarendon Road street scene.

10. I consider that the proposed development would have a harmful effect on the character and appearance of the host property and the surrounding area. Consequently, the proposal would conflict with the provisions of Policy BE1 of the Warwick District Local Plan (September 2017) (WLP), which requires, amongst other matters, that new development should positively contribute to the character and quality of its environment through good layout and design.
11. The instances of other unsympathetic alterations elsewhere in the wider CA, or examples of other enlarged lightwells in different areas, do not justify further harm that the proposed development would cause. Even if the proposed railings themselves would be of traditional form, similar to other railings in the locality, and if a condition could secure details of the means of fixing, this does not justify nor mitigate the harm identified. While the impact of the proposal would be relatively localised, the character and appearance of the CA as a whole would not be preserved or enhanced. The proposal therefore fails to satisfy the statutory presumption under Section 72(1) of the Act.
12. Paragraph 205 of the National Planning Policy Framework (the Framework) sets out that, 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. Bearing in mind the scale and nature of the proposed development, the harm to the significance of the CA as a designated heritage asset would be less than substantial. In these circumstances, paragraph 208 of the Framework requires this harm be weighed against the public benefits of the proposal.
13. The proposal would provide an additional small housing unit close to local services and facilities and make effective use of the building. There would be benefits associated with the construction phase and as future residents feed into the local economy. Moreover, there is little evidence to suggest that the proposal is necessary to ensure the vibrancy of the local area, nor that the use of the basement could not be achieved in less harmful ways.
14. Even if aspects of the proposal accord with some local plan policies, or parts of them, including Part f) of Policy RLS3 of the Royal Leamington Spa Neighbourhood Plan (NP) and Policy RLS1 of the NP, this does not constitute a public benefit per se. I do not agree that the proposed railings represent a conservation gain and the provision of private amenity space for future occupiers would be a private, rather than a public benefit.
15. Even cumulatively, the public benefits associated with the provision of just one unit would be modest and not sufficient to outweigh the less than substantial harm to the significance of the CA as a designated heritage asset. Consequently, the proposal conflicts with the historic environment protection policies within the Framework and would also conflict with Policy HE1 of the WLP, which sets out that where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the public benefits of the proposal. Also, even though the proposal does not involve the loss or total demolition of an unlisted building, there would be conflict with Policy HE2 of the WLP, which

in its explanatory text, sets out that the policy seeks to retain the integrity and form of unlisted buildings in the CA.

16. While not referred to in the reason for refusal, the appellant asserts that there would be no conflict with Policy RLS3 of the Royal Leamington Spa Neighbourhood Plan (June 2020) (NP), as there would be reinstatement of period details. However, for the reasons given above, I find the proposal would conflict with this policy of the NP, as it would harm the significance of the CA by not retaining, restoring nor reinstating period details within the CA, insofar as the size of the proposed lightwell and position of the proposed railings.

Living Conditions

17. The appeal apartment is served by two external windows, both at basement level. The front window serves the lounge/kitchen and faces directly onto the solid brick wall of the lightwell. The rear bedroom window faces solid steps. Therefore, the outlook from both windows of the apartment is extremely limited and in order to see sky, an occupier would have to be close to the windows and look up at an angle. Even if the proposed extension to the lightwell had been acceptable in principle, and whether or not it would provide sufficient space for outdoor seating and increased light within the apartment, to my mind the outlook within the apartment overall would still be limited and create an oppressive living environment for any future occupiers.
18. I observed that the door connecting the bedroom and lounge/kitchen is an obscured glazed door, which allows some borrowed light to penetrate through it to the bedroom and the white painted external walls of the steps and lightwell area help to reflect light into the bedroom.
19. The appellant's Daylight and Sunlight Assessment indicates that the bedroom falls short of the required 100 lux daylight within the British Research Establishment (BRE) guidelines, with a medium of 68 lux across the room. The guidelines require a minimum of 1 habitable room have satisfactory sunlight and daylight and indicates that daylight for bedrooms is comparatively less important.
20. The assessments show that with the extended frontage lightwell it would offer the lounge/kitchen sufficient sunlight and daylight and with this intervention, the whole apartment would meet the standards. However, for the reasons set out in my first main issue, this aspect of the proposal would have a harmful impact on the character and appearance of the host building and CA. Without this intervention, it casts doubt whether the sunlight and daylight would provide suitable living conditions for future occupiers.
21. The Technical Housing Standards- Nationally Described Space Standards (2015) (NDSS) provide guidelines with which to assess whether the proposal would provide acceptable standards of amenity for the occupiers of the new apartment in respect of internal space. Although, the NDSS has not been adopted as development plan policy, it still carries some weight as a material consideration. For a 1-person bedspace, 1 bedroom dwelling with a shower room, the NDSS require a minimum gross internal floor space of 37 sqm with 1 sqm of built-in storage. It is not in dispute that the internal floorspace

with in the apartment falls below the NDSS requirement. The NDSS also indicate a minimum floor to ceiling height of 2.3m for at least 75% of the gross internal area of a dwelling.

22. No measurements of the floor to ceiling heights have been provided by the main parties. However, irrespective of the NDSS, during my site visit I observed that the internal ceiling heights were only slightly higher than that of a typical door, which would be around or less than 2 metres high.
23. Even though the apartment was unoccupied when I visited, it felt cramped and the amount of internal built in storage was limited. An additional 4 sqm of storage space is provided just outside the front door of the apartment, which could be used for bicycles or refuse. However, this would not overcome the shortcomings of the lack of internal built-in storage, nor the sense of a cramped environment that I experienced. Even if the overall light levels within the proposed apartment would be satisfactory, taken in combination, the low ceiling height, the size of the gross internal floor space and storage, and restricted outlook makes the apartment feel uncomfortably oppressive.
24. For such reasons, the appeal apartment would fail to provide acceptable living conditions for its future occupiers. This conflicts with Policy BE3 of the WLP and the Framework, which require that development provide a high standard of amenity for existing and future users.

Other Matters

25. Appendix D of the Warwick District Council Residential Design Guide, Supplementary Planning Document (May 2018) (SPD) sets out that the minimum separation of a window to a blank wall (of a neighbouring dwelling) should be 12 metres. However, Appendix D of the SPD relates to distance separation between dwellings, and so is not directly of relevance to the appeal proposal. Even if they were, the separation distances under the appeal scheme still fall significantly below the SPD guidance, which are not applied where there is a need to preserve the character and appearance of a CA, as in this case.
26. That there are no highway safety or noise concerns in relation to the proposal are neutral considerations and a lack of harm in these respects does not alter my overall conclusion.

Conclusion

27. For the reasons given above, the proposal would conflict with the development plan as a whole and material considerations do not indicate a decision should be made other than in accordance with it.
28. Therefore, I conclude the appeal should be dismissed.

C Billings

INSPECTOR