



Appeal Decision

Site visit made on 15 October 2024

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th November 2024

Appeal Ref: APP/T3725/W/24/3341701

41 Avenue Road, Leamington Spa, Warwickshire CV31 3PF

- 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 Mousa on behalf of SEAL Properties Ltd against the decision of Warwick District Council.
 - The application Ref is W/23/1407.
 - The development proposed is the reconfiguration of flat 1 to create 2no. residential units (1 no. 1 bedroom unit & 1 no. 2 bedroom unit). External works comprising reconfiguration of front lightwell, installation of 2 x new side windows and revised boundary treatment. Retention of existing flats 2 & 3.
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Decision

1. The appeal is allowed and planning permission is granted for reconfiguration of flat 1 to create 2no. residential units (1 no. 1 bedroom unit & 1 no. 2 bedroom unit). External works comprising reconfiguration of front lightwell, installation of 2 x new side windows and revised boundary treatment. Retention of existing flats 2 & 3 at 41 Avenue Road, Leamington Spa Warwickshire CV31 3PF in accordance with the terms of the application, Ref W/23/1407, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is whether the proposal would provide a suitable standard of living conditions for future occupiers with particular regard to outlook from the proposed ground floor bedroom.

Reasons

3. The appeal site comprises the rectangular plot serving No 41 Avenue Road, a semi-detached building containing three flats. The proposed subdivision would be created by blocking the doorway between the ground floor dining room and kitchen and the stairway from the basement up to the kitchen. The dining room would be converted to provide a bedroom served by an ensuite.
4. During my site visit I was able to look through the existing side window serving the dining room. Through it I could see the driveway, the boundary wall and the side wall serving No 43 Avenue Road. The boundary wall is set low against the window and so was not intrusive. The side wall of No 43 blocks longer views but at an angle it is possible to see behind and in front of the building. Although close, I am content that the separation distance is sufficient to maintain a modest quality of outlook from the dining room. I therefore find that the dining room currently appreciates a suitable standard of living conditions.

5. The proposal would not result in a new habitable room but rather change the use of an existing one. I therefore find that there is no new, or additional, requirement for outlook, this requirement is existing. Although I am mindful of the 12 metre separation guidance set out within the RDG, this separation is already not met. The proposal would also replace the existing window with a larger one that would provide an improved outlook and better views towards the front of No 43. I therefore find that there would be a modest increase to the quality of the living conditions provided for to the room as a result of the proposal.
6. I am also mindful that the proposal would include the enlargement of the window serving the existing basement bedroom. At the time of my visit the bedroom was served by a small lightwell which would not likely provide a good level of light to the room or afford an outlook from it. The proposal would improve this situation through the enlargement of the window and the lightwell to the benefit of the living conditions of future occupiers. I note that the Council found similarly in this regard
7. In all, therefore, the proposed subdivision of the flat would provide a modest improvement over the existing living conditions provided and would therefore comply with Policy BE3 of the Warwick District Local Plan (the LP) which requires developments to provide an acceptable standard of amenity for future users.

Other Matters

8. I note the concerns raised by neighbours at to the occupation of the appeal building and the presence of anti-social behaviour. I note also that the appellant has suggested this may be in relation to another nearby building on the street. Nevertheless, the proposal would not so substantially alter the way in which this building is used, or increase the number of occupiers so significantly, as to harm the living conditions of neighbouring occupiers.
9. The appeal site is within the Leamington Spa conservation area and I have been mindful of my statutory duties in this regard. I find that the proposal would, through the modest external alterations have a neutral effect on the character and appearance of the surrounding area, including the significance and interest of the conservation area. I note that the Council found similarly in this regard.

Conditions

10. I have had regard to the conditions suggested by the Council and the advice on planning conditions set out by the National Planning Policy Framework (the Framework) and the Planning Practice Guidance. In the interests of clarity and enforceability, I have made some changes to the wording.
11. For certainty, I have set out the timescale for the commencement of development. A condition is also necessary, for certainty and enforceability, requiring that the development is carried out in accordance with the approved plans.
12. In the interests of protecting the historic interest, character and significance of the conservation area, a condition is necessary requiring the submission of additional fenestration details.

13. As the proposal would result in a new dwelling a condition is necessary to limit the usage of water in line with LP Policy FW3. In order to minimise and mitigate against air pollution a condition requiring the provision of an electric vehicle charging point is also necessary.

Conclusion

14. 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 therefore conclude that the appeal should be allowed.

Samuel Watson

INSPECTOR

SCHEDULE OF 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 drawing no's KADS-41AR PD002 sheet 2, KADS-41AR PD002 sheet 3 and KADS-41AR PD002 sheet 4.
- 3) The new window units hereby permitted shall not be installed until large scale details of the windows (including a section showing the reveal, heads and cill details and details of materials) and the lightwell boundary wall/railings have first been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in strict accordance with these approved details.
- 4) The development hereby permitted shall not be occupied unless and until secure cycle parking facilities have been provided in accordance with drawing KADS – 41AR PD002 sheet 4 have been provided and thereafter those areas shall be kept marked out and available for such use at all times.
- 5) The development hereby permitted shall not be occupied unless and until a scheme showing how a water efficiency standard of 110 litres per person per day based on an assumed occupancy rate of 2.4 people per household (or higher where appropriate) will be achieved has been submitted to and approved in writing by the Local Planning Authority. No dwelling/ unit shall be first occupied until the works within the approved scheme have been completed for that particular dwelling / unit in strict accordance with the approved details and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications.
- 6) Prior to the occupation of the development hereby permitted, one 16amp (minimum) electric vehicle recharging point shall be installed in accordance with details first submitted to and approved in writing by the Local Planning Authority (LPA). Once the electric vehicle recharging point has been installed, the following verification details shall be submitted to and approved in writing by the LPA: (1). Plan(s)/ photograph(s) showing the location of the electric vehicle recharging point; (2). A technical data

sheet for the electric vehicle recharging point infrastructure; and (3). Confirmation of the charging speed in kWh. Thereafter the electric vehicle recharging point shall be retained in accordance with the approved details.