



Appeal Decisions

Site visit made on [Event Date]

by Elizabeth Jones BSc (Hons) MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 January 2025

Appeal A Ref: APP/T3725/X/23/3330786

3 Lower Villiers Street, Leamington Spa CV32 5XU

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr and Mrs I Pereda against the decision of Warwick District Council.
- The application ref W/23/0189, dated 7 February 2023, was refused by notice dated 6 April 2023.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is new render finish to match existing.

Summary of Decision: The appeal is dismissed.

Appeal B Ref: APP/T3725/W/23/3330937

3 Lower Villiers Street, Leamington Spa CV32 5XU

- 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 and Mrs I Pereda against the decision of Warwick District Council.
- The application ref W/23/0754.
- The development proposed is single storey side extension, hip to gable conversion with rear dormer window.

Summary of Decision: The appeal is allowed.

Procedural Matters

1. Since the appeals were made, the Government published the revised National Planning Policy Framework (the Framework), which came into force on 12 December 2024. Policies material to this decision have not fundamentally changed. Therefore, I have not sought the main parties' views on this.
2. Regarding both appeals, the appeal forms indicate that the appeals are made by "Ms (Mr and Mrs Celine (Inigo) Boudet (Pereda))." At the request of the Planning Inspectorate the appellants have subsequently confirmed that the appeals are made by Mr and Mrs I Pereda.

Appeal A (LDC appeal)

Main issue

3. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded. This consideration is an issue of lawfulness which cannot take account of any matters of planning merit.

Reasons

4. The appeal relates to a semi-detached property located within the Leamington Spa Conservation Area (LSCA). The appeal property is brick with a small area of render detail on the front elevation. The Council considers that the application of render to the exterior of the dwelling is not permitted development (PD) because it would not comply with the provisions of Article 3 and Schedule 2, Part 1, Class A, Paragraph A.2 (a) of the Town and Country Planning (General Permitted Development) (England) Order 015 (GPDO).
5. Class A provides that the enlargement, improvement or other alterations of a house is permitted subject to conditions.

Condition A.2 (a) states: - in the case of a dwellinghouse on article 2(3) land, development is not permitted by Class A if – it would consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles.

6. The appellant has made no written submissions regarding Class A of the GPDO. I note the submissions drawing my attention to several rendered properties within the LSCA and the comments regarding the effect of the proposed development on the character and appearance of the host property. However, such considerations are not relevant in a LDC application which is a matter of law and not a matter of judgement.
7. It is not disputed that the appeal property is within the LSCA which is defined in the GPDO as article 2(3) land. In a conservation area, the cladding (which includes render) of any part of the exterior of a house requires an application for planning permission by virtue of Schedule 2, Part 1, Class A, Paragraph A.2 (a) of the GPDO. Thus, the proposal would not be PD, whether applying the render to the front elevation only as stated on the appeal form and in the appellant's statement, or to the whole property as indicated on the submitted, drawing ('Proposed Plans & Elevations' drawing number 4210-02).
8. On the evidence available to me and having regard to all other matters raised, I find that, as a matter of fact and degree, it has not been shown that on the balance of probabilities the proposed development would be PD falling within Class A of the GPDO.

Conclusion

9. For the reasons given above, I conclude that the Council's refusal to grant an LDC in respect of the new render finish to match existing was well founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

Appeal B (s78 Appeal)

Procedural Matters

10. The description of development on the application form differs from that on the decision notice and appeal form. The appeal development is the erection of a single storey side extension and 1no. rear dormer (amendment to planning permission ref: W/22/1808 to change dormer materials to composite cladding). I have dealt with the appeal on that basis.

11. Appeal B has been linked with Appeal A above, for the avoidance of doubt, proposed render to the elevations of the appeal property is not shown on the submitted plans and does not form part of the Appeal B development.

Main Issue

12. The main issue is the effect of the development on the character and appearance of the appeal property and the surrounding area and the extent to which it preserves or enhances the character or appearance of the LSCA.

Character and appearance

13. The Council's officer report states that the original grant of planning permission Ref: W/22/1808 for "Erection of a single storey side extension and the erection of a rear dormer with matching materials." Thus, the Council have previously found the principle of installing a rear dormer of this size and scale, albeit in different materials, in the appeal property to be acceptable. Accordingly, my determination will consider the use of composite cladding to the cheeks of the dormer instead of materials to match existing.
14. The significance of this part of the LSCA lies to some extent in the positive contribution made by the rows of traditional Victorian terrace houses. The appeal property is a semi-detached 1930s dwelling located on the corner of Lower Villiers Street at its junction with Upper Hill Street and thus is separated from the row of terrace properties in Villiers Street.
15. Conservation Areas are designated heritage assets as defined by the Framework and great weight is to be given to their preservation and enhancement. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of conserving or enhancing the character or appearance of a conservation area.
16. The appeal property has undergone recent alterations including new windows which to some extent give the property a contemporary design appearance. The slate materials used on the roof of the dormer match those used on the main roof of the appeal property. I accept that the older dormer extensions in the area typically have slate/tiled walls, and that the composite cladding has a less traditional appearance than the approved slate tiles. However, in this particular case, the use of composite cladding of the walls, with its horizontal emphasis and dark grey colouring does not offend the integrity or character of the architecture of the host property and sits comfortably alongside the use of other consented materials. Thus, the appeal development does not appear alien or incongruous in the existing roofscape. Moreover, I note that the Council's Conservation Officer considered the use of composite cladding acceptable.
17. Although the dormer can be seen from Upper Hill Street, it is seen within the context of a variety of brick walls, garages and coach houses. Given the variety of development that exists in the local area, I find that the introduction of composite cladding in this location is acceptable. Overall, the dormer appears to integrate successfully with the character and appearance of the host property and the surrounding area. I therefore consider that the appeal development preserves the character and appearance of the LSCA.
18. As the appeal development does not harm the significance of the conservation area, I do not need to assess any potential public benefits.

19. Given the above I conclude that, on balance, the appeal development does not harm the character and appearance of the appeal property or the surrounding area, and it preserves the character and appearance of the LSCA. This satisfies the requirements of the Act, and the NPPF and does not conflict with Policies BE1 and HE1 of the Warwick District Local Plan (2017) and Policy RLS3 of the Royal Leamington Spa Neighbourhood Development Plan (2019) that seek, amongst other things, to ensure all new development positively contributes to the character and quality of the environment through good layout and design. As a result, the proposal is in accordance with the development plan.

Conclusion

20. Having had regard to the development plan as a whole and all other material considerations, I conclude that the appeal development is acceptable. For the reasons given above, I conclude that Appeal B is allowed. I shall grant planning permission for the appeal development.

Conditions

21. I have considered the conditions suggested by the Council. In the case of a retrospective grant of permission a condition regarding the time limit for the commencement of development is not necessary because the development has already taken place. For the avoidance of doubt, it is necessary that the development is carried out in accordance with the relevant plans.

Formal Decisions

Appeal A

22. The appeal is dismissed.

Appeal B

23. The appeal is allowed, and planning permission is granted for the erection of single storey side extension and 1no. rear dormer (amendment to planning permission Ref: W/22/1808 to change dormer materials to composite cladding) at 3 Lower Villiers Street, Leamington Spa CV32 5XU in accordance with the terms of the application Ref: W/23/0754, subject to the following condition.
- 1) The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing(s) 4210-02N, and specification contained therein, submitted on 23/05/2023. Reason: For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.

Elizabeth Jones

INSPECTOR