



Appeal Decision

Site visit made on 28 January 2025

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 February 2025

Appeal Ref: APP/T3725/W/24/3351830

2 Bedford Street, Leamington Spa, Warwickshire CV32 5DY

- 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 Castle Homes of Warwick Ltd against the decision of Warwick District Council.
 - The application Ref is W/23/1840.
 - The development proposed is demolition of existing building and construction of new building for commercial and business purposes (use class E).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A revised version of the National Planning Policy Framework (the Framework) has been issued since the appeal was lodged. The parts of the Framework most pertinent to my assessment remain largely unaltered and so there is no reason to seek comments from the main parties on the revisions.

Main Issue

3. The main issue is the effect of the development on living conditions at 50 and 50A Warwick Street (Nos 50 and 50A) in terms of outlook and light.

Reasons

4. The appeal property is a single storey building that faces onto Bedford Street within Leamington Spa town centre. Nos 50 and 50A adjoin the appeal site to the north. The flank wall to Nos 50 and 50A is very close to the appeal site boundary and it includes a window at first floor and a window at second floor level. The appellant's Daylight and Sunlight Report dated 27 January 2023 (the Report) indicates that the first floor window (referred to as window 20) serves a bedroom/dressing room. The second floor window is a secondary window also serving a bedroom/dressing room.
5. Currently, the windows in Nos 50 and 50A provide clear views out over the appeal property towards a public house on the other side of the appeal site. These windows also allow sight of the sky and oblique views onto Bedford Street. As they are south facing, the windows also provide direct sunlight as well as daylight to the rooms that they serve.
6. The proposed building would be 3 storeys high with its north side wall very near to the windows in Nos 50 and 50A that face towards the site. The front elevation of

the second floor level of the new building would be set back from the pavement on Bedford Street. Even so, by virtue of its close proximity and height the building would severely restrict views out of the windows at Nos 50 and 50A.

7. The Report concludes the proposal would have a relatively low impact on light received by neighbouring properties. However, it acknowledges the development's effect on daylight to window 20 would fail to meet the Vertical Sky Component test (VSC test) and Daylight Distribution test (DD test) as set out in the Building Research Establishment's guidance¹ (the BRE guide). Indeed, the VSC test and DD test results indicate the proposal would significantly restrict views of the sky from window 20 and markedly reduce daylight distribution within the associated room. Also, the development would block direct sunlight to window 20 so that the BRE guide's standards on annual and winter sunlight hours would not be met.
8. I am taken to no planning policy that requires development to fully accord with the tests as set out in the BRE guide. Also, the numerical guidelines provided in the BRE guide should be interpreted flexibly. The appellant contends the effects on window 20 attract reduced weight as it serves a bedroom, which is less likely to be used than main living rooms during daylight hours. However, even if I accept this contention, the data provided in the Report demonstrate the development would substantially reduce the level of daylight and sunlight reaching window 20. This would be an unsatisfactory harmful effect, particularly when considered alongside the loss of outlook from the window as a consequence of the proposal.
9. The test results as set out in the Report indicate the loss of light to the second floor window in Nos 50 and 50A would be less than that for window 20. Also, from the evidence this would appear to be a secondary window serving a room with other fenestration that would be largely unaffected by the development. Furthermore, I am satisfied from the evidence that the proposal would have no adverse effects on any other residential window.
10. Even so, when considering the overall impacts, I conclude the proposal would cause unacceptable detriment to the living conditions at Nos 50 and 50A in terms of significantly restricting outlook from windows and obstructing most light to window 20. In these regards, the development would not accord with policy BE3 of the Warwick District Local Plan 2017 (the LP). Amongst other things, this looks to ensure development does not have an unacceptable adverse impact on the amenity of nearby residents.
11. The appellant suggests that within town centres it is not unusual for buildings to be close to each other with subsequent overbearing and overshadowing effects on windows. However, LP policy BE3 applies to development proposals in all areas and so the town centre location of the appeal site fails to justify the conflict with policy. Also, I am referred to paragraph 130 of the Framework that advises on taking a flexible approach in applying guidance on daylight and sunlight. However, this advice only applies when considering applications for housing and so it is not relevant in the assessment of this appeal for a business and commercial building.

Other Considerations and Planning Balance

12. It is suggested that the proposed building will create a barrier to noise emanating from the adjoining pub so as to reduce disturbance to residents at Nos 50 and

¹ Building Research Establishment Site Layout Planning for Daylight and Sunlight – a guide to good practice 2022

50A. However, there is little evidence before me on the level or nature of noise that is generated from the pub and how this may affect the living conditions at nearby residences. Without such evidence, I am unable to conclude the development would have any meaningful noise mitigation benefits. Therefore, this factor attracts limited weight in my assessment.

13. The proposal would represent a more efficient use of land as it would introduce upper storeys onto the site. It is also likely to lead to more people working at or visiting the property and, in these respects, it would support the vitality and viability of the town centre.
14. The appeal site is in Royal Leamington Spa Conservation Area (the CA). In my assessment of the appeal, I am mindful of the legal duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The significance of the CA is partly explained by the older properties on local streets that are of architectural and historic interest.
15. The existing building on the site is of no particular interest. However, it is low and narrow and so it has a minor visual influence and neutral effect on the visual qualities of the locality. The proposed building would be taller but it would be a similar height to the property at Nos 50 and 50A. Also, it would include features that closely reflect those on the attractive, older buildings on Warwick Street. Overall, the development would lead to an enhancement to the character and appearance of the site and the CA.
16. As such, there are benefits to the scheme that add support for allowing the appeal. However, at paragraph 135(f), the Framework states that planning decisions should ensure developments create places with a high standard of amenity for existing users. The proposal would cause significant harm to living conditions at Nos 50 and 50A and so it would not represent good design. This is the overriding factor. The advantages of the development do not justify granting planning permission contrary to the LP.

Conclusion

17. For the reasons given above, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR