
Appeal Decision

Site visit made on 5 November 2025

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2025

Appeal Ref: APP/T3725/W/25/3371916

151/3-151/4 Leam Terrace, Leamington Spa, CV31 1DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mr A and J Dhesi against the decision of Warwick District Council.
 - The application Ref is W/25/0776.
 - The application sought planning permission for 151/3 rear ground and first floor extensions with room in roof space over. 151/4 rear ground, first and side extensions with room in roof space over without complying with a condition attached to planning permission Ref: W/23/1707 (Appeal Ref: APP/T3725/W/24/3342318), dated 26 November 2024.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with drawings: Location Plan, 2300/6/D, 2300/3/E and 2300/4/E.
 - The reason given for the condition is in the interests of certainty and enforceability.
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Decision

1. The appeal is allowed and planning permission is granted for 151/3 rear ground and first floor extensions with room in roof space over. 151/4 rear ground, first and side extensions with room in roof space over at 151/3-151/4 Leam Terrace, Leamington Spa CV31 1DF in accordance with the application Ref: W/25/0776, without compliance with condition number 2 previously imposed on planning permission Ref: W/23/1707 (Appeal Ref: APP/T3725/W/24/3342318) dated 26 November 2024 and subject to the following conditions:
 - The development hereby permitted shall be carried out strictly in accordance with the following approved plans: 2300/3/G and 2300/7.
 - All external facing materials for the development hereby permitted shall be the same type, texture and colour as those of the existing building.
 - Prior to the occupation of the development hereby permitted, the windows in the south facing elevation of house number 4 shall be permanently glazed with obscured glass to a degree sufficient to conceal or hide the features of all physical objects from view and shall be non-opening unless the parts of the window that can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The obscured glazed windows shall be retained and maintained in that condition at all times.

Procedural Matters

2. Planning permission was granted on appeal for a series of extensions to 151/3 and 151/4 Leam Terrace¹. The appeal before me seeks to vary the list of approved plans imposed by condition 2 of this permission to make amendments to the permitted extensions.
3. While the submitted plans² show several amendments to the approved development, the Council's concerns focus solely on the proposed increase in height and changes to the roof profiles of the permitted single-storey side and rear extensions to No. 151/4. It raises no objection to the other changes. From the evidence before me and my observations on site, I can find no reason to disagree.
4. On my visit, I saw that construction of the extensions is ongoing. From my observations there appear to be discrepancies between what is shown on the approved and submitted plans and what has been built. Specifically, the single-storey side extension behind the existing lean-to has been constructed to a greater height than shown on either set of plans. Its height appeared to reflect the proposed increase in height to the rear section of the single-storey side extension and rear extension rather than the lower height indicated. For the avoidance of doubt, I have determined the appeal based on the submitted plans.
5. As the application is part retrospective, the appeal falls under Section 73A of the Town and Country Planning Act 1990, which allows retrospective permission for development already carried out. Unlike Section 73, which deals with varying conditions prospectively, Section 73A applies where work has proceeded in breach of conditions. In practice, the differences in determining these appeals are minimal and no injustice would arise from me considering the appeal on this basis.
6. As with Section 73 appeals, I must consider only the condition in question. In this case, the changes to the approved development, specifically the proposed increase in height and changes to the roof profiles to the single-storey side and rear extensions at No. 151/4 (hereon referred to as the proposed amendments). This is not a complete re-consideration of the original permission.

Main Issues

7. In the context of the above, the main issues in this appeal are:
 - whether the proposed amendments would preserve or enhance the Royal Leamington Spa Conservation Area; and
 - the effect of the proposed amendments on the living conditions of the occupants of No. 153 Lean Terrace, with particular regard to sunlight, daylight and outlook.

Reasons

Conservation Area

8. The appeal site is located in the Royal Leamington Spa Conservation Area (RLSCA). I have therefore approached this appeal in the context of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which

¹ Application Ref: Ref W/23/1707, Appeal Ref: APP/T3725/W/24/3342318

² Drawing Nos: 2300/3/G and 2300/7

requires special attention be paid to the desirability of preserving or enhancing the character and appearance of the RLSCA.

9. From the evidence before me and my observations on site, the significance of the RLSCA, in so far as it relates to this appeal, is the architectural value of the historic buildings and how their layout and composition relate to the evolution of the town.
10. I saw on my visit, from the construction to date, that the scale of the proposed amendments is not insignificant. Replacing the permitted pitched roof with a flat roof and raising the eaves height for most of the side and rear extensions would increase their visual bulk. The flat-roofed side extension would appear less harmonious with the host dwelling and make the rear extension more noticeable. Large flat roofed extensions, especially along the boundary, are not a common feature in the immediate area, so the proposed amendments would make the extensions slightly at odds with the character and appearance of the RLSCA.
11. Nevertheless, the permitted single-storey extensions are discreetly positioned between the host dwelling and No. 153 Leam Terrace, set back behind the existing lean-to and well away from the highway. Views of the extensions from Leam Terrace are therefore limited and, even with the amendments, the extensions would not appear obtrusive or disrupt the uniform frontage of the terrace that includes the host dwelling. Overall, while the amendments would make the extensions less retiring than those permitted, their visual bulk would be broadly comparable to the side and rear additions to the neighbouring property, No. 153 Leam Terrace.
12. Furthermore, although the Council's Residential Design Guide (2018) discourages single-storey flat roof side extensions, the permitted first-floor addition with a pitched roof would draw attention away from the flat roofs below. Moreover, the terrace that includes the host dwelling has some flat-roofed features such as dormer windows and porches, helping the proposed extensions integrate with their surroundings and reducing any sense of incongruity.
13. Views from the rear gardens of the neighbouring properties and the allotments behind, already feature various rear extensions and, in many of these views, the single-storey extensions would be seen against a backdrop of the host dwelling. The extensions would therefore appear in keeping with other nearby houses and the amendments, including the increase in height, would be less noticeable.
14. Accordingly, for the reasons above, the proposed amendments to the single-storey extensions at No. 151/4 Leam Terrace would not harm the character, appearance, or significance of the RLSCA. The proposal would therefore accord with Policies BE1 and HE1 of the Warwick District Local Plan (2017) (Local Plan), which seek to ensure that new development positively contributes to the character and quality of its environment and avoids harm to heritage assets. It would also accord with Policy RLS3 of the Royal Leamington Spa Neighbourhood Development Plan (2020), which seeks to ensure that development proposals in the RLSCA pay attention to the building type, style, materials and colours in relation to the character area in which they are located and its distinguishing features, and that building height, scale and rooflines are sympathetic to the local setting.

Living conditions

15. The permitted single-storey extensions both adjoin the boundary wall with No. 153 Leam Terrace, where windows serving the kitchen, main living space, and bathroom of the ground-floor flat face this boundary.
16. The impact of the proposed increase in height to the permitted side extension has been amplified by the current construction, which, as discussed above, appears inconsistent with both sets of plans. The submitted plans show that the main living room window of the ground-floor flat would face a section of the extension with a height similar to the eaves of the permitted pitched roof extension. As such, the proposed amendments would have a very limited effect on direct views from this window. I appreciate that beyond this lower section of the side extension, its height would rise to match the increase in height proposed for the rear extension. This would be a notable increase from that permitted and within the periphery of the view from the living room window. However, this taller section would be further away from the window, and the two-storey flank wall would provide a backdrop, as it would have to the permitted extension. The overall change in outlook would therefore be limited and would not result in any harm to living conditions.
17. The kitchen window faces the existing lean-to, which would remain, and peripheral views would include the lower section of the proposed side extension. Given this, the effect of the proposed amendments on the outlook from this window would also be very limited. While the bathroom window would face the taller section of the proposed side extension, I saw on my visit that views from this window are already restricted by obscure glazing and a window covering, which are likely to remain for privacy.
18. The host dwelling and side and rear extensions would lie to the north and northeast of the kitchen, living room, and bathroom windows of the ground floor flat. Even at its tallest, the side extension would be substantially lower than the 2-storey addition behind it, therefore any effect on daylight or sunlight would be negligible. There is no substantive evidence before me to suggest otherwise. Any loss of sunlight from the rear extension's increased height would be limited to early morning in summer. For these reasons, the proposed amendments would not result in any harm to the living conditions of the occupants of No. 153 Leam Terrace in this regard.
19. There is a dispute between the parties as to whether the rear extension would breach the SPD's 45-Degree Rule in relation to the nearest bedroom window of the ground floor flat, which is located on the rear elevation of No. 153 Leam Terrace. However, the submitted plans show no increase in depth to the rear extension, so any breach has already been permitted. On my visit, I noted two windows serving this bedroom, and that the light received by the larger, furthest window would likely remain unaffected by the proposed amendments. Given this, even if the proposed increase in height to the rear extension caused a modest loss of sunlight to the nearer window, the overall impact on the bedroom would not be significant or harmful to living conditions.
20. The increased height in the permitted extensions would be most noticeable along the driveway between No. 153 Leam Terrace and its boundary with No. 151/4. Nonetheless, although the taller flank wall of the side extension would make the space feel more enclosed and may slightly increase overshadowing, the proximity

of the permitted two-storey development means the effect of the proposed amendments would not be appreciably more oppressive than that already allowed. The proposal would therefore not harm the living conditions of the occupants of No. 153 Leam Terrace in this regard.

21. For the reasons above, in terms of outlook and light, the proposal would not have an appreciable impact beyond the permitted scheme and would therefore not harm the living conditions of the occupants of No. 153 Leam Terrace. While the Council considers the existing development suboptimal in this regard, I am assessing the scheme before me, and any additional effects would not be harmful. The proposal therefore complies with Policy BE3 of the Local Plan, which requires development to avoid unacceptable adverse impacts on residential amenity.

Other Matters

22. I have taken careful account of those who live nearby, including in respect of the privacy of the occupants of No. 153 Leam Terrace and the impact of ongoing construction. The further extension of a recently permitted development has understandably caused concern, and I appreciate that construction brings with it a degree of noise and disturbance. Nonetheless, the building works should only continue for a limited period. The additional windows facing No. 153 Leam Terrace would be high-level, non-opening below 1.7m, and permanently obscure glazed, which would be secured by condition. Unacceptable privacy impacts would therefore not arise. Although intentional unauthorised development can be a material consideration, the appellant's willingness to regularise the works affords this concern limited weight.

Conditions

23. The Council proposes imposing all four original conditions, including the standard time limit. However, as development has already commenced, in this case, a time limit condition is unnecessary.
24. A condition specifying the approved plans is required in the interests of certainty. For the same reasons and in order to protect the character and appearance of the area, a condition is necessary to ensure the materials used on the external surfaces match the existing building. To protect the living conditions of the occupants of No.153 Leam Terrace, a condition is also required to provide, maintain and retain the windows in the south facing elevation of the extensions as obscure glazed and non-opening below 1.7 metres above floor level.

Conclusion

25. For the reasons above, the proposal would accord with the development plan, read as a whole. There are no relevant material considerations of a sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. The appeal is therefore allowed, subject to the conditions set out above.

Hannah Guest

INSPECTOR