

Planning Committee: 07 November 2023

Item Number: 8

Application No: [W 23 / 0765](#)

Town/Parish Council: Leamington Spa
Case Officer: James Moulding

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Registration Date: 24/05/23

Expiry Date: 19/07/23

47a Kenilworth Road, Leamington Spa, CV32 6JJ

Erection of two storey rear extension FOR Mr Russ Fretwell

This application is being presented to Planning Committee due to an objection from the Town Council having been received.

RECOMMENDATION

It is recommended that Planning Committee grant planning permission for this application subject to the conditions listed at the end of the report.

DETAILS OF THE DEVELOPMENT

The application proposes a two-storey rear extension, installation of roof lights, and installation of additional fenestration at all levels to the side elevation.

THE SITE AND ITS LOCATION

The application site relates to a semi-detached dwelling located within the Royal Leamington Spa Conservation Area. The application property at 47a is believed to most likely have been the service wing of the larger adjoining dwelling at No. 47.

PLANNING HISTORY

W/11/1422 - Erection of single storey rear extension and modification to window to rear elevation - Granted.

RELEVANT POLICIES

- National Planning Policy Framework
- [Warwick District Local Plan 2011-2029](#)
- BE1 - Layout and Design
- BE3 - Amenity
- HE1 - Protection of Statutory Heritage Assets
- HE2 - Protection of Conservation Areas
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- TR3 - Parking
- [Guidance Documents](#)
- Residential Design Guide (Supplementary Planning Document- May 2018)
- The 45 Degree Guideline (Supplementary Planning Guidance)
- Parking Standards (Supplementary Planning Document- June 2018)
- [Royal Leamington Spa Neighbourhood Plan 2019-2029](#)

- RLS2 - Housing Design
- RLS3 - Conservation Area

SUMMARY OF REPRESENTATIONS

Royal Leamington Spa Town Council:

Objection, on the following grounds:

- Inappropriate fenestration and its impact on both the street scene and on amenity / privacy for neighbours.
- Removal of chimney which unbalances the pair of properties, which are in the conservation area.

Conservation Officer: No objection, subject to retention of chimneys. No objection to proposed rear fenestration, limited to the rear and does not impact upon any public views. Height and scale of the extension has been reduced.

Conservation Advisory Forum: Objection (comments refer to initial three storey proposal):

- Proposed extension is felt to be out of keeping and detrimental to the conservation area.
- Proposal considered to overwhelm the attractive dwelling which positively contributes to the character of the conservation area, by introducing fenestration which reads as a wall of windows, which would be completely out of character with the building and the neighbouring property, being directly harmful to the street scene as it would be visible from Barwell Close.
- The existing form of what was likely once the servants' quarters would be completely swamped, with the chimney and the hip of the roof lost to create a wing.
- Overall CAF felt that the proposal would set a poor precedent in terms of detailing and design and that the proposal should be resisted to prevent harm to the conservation area.

WCC Ecology: Objection pending the submission of a Preliminary Bat Roost Assessment. Request that evidence should also be supplied to show how the application aims to achieve Biodiversity Net Gain.

Public Response: 2 objections from neighbour raising both material and non-material planning considerations (summarised per revision below):

Initial Three Storey Proposal

- Demolition of chimneys is harmful to the character of the conservation area and No. 47.
- Installation of new side facing window in an elevation where there are none existing.
- Installation of over-large rear windows.

- The addition of two additional stories would be overdevelopment and not subservient, it would be out of scale and proportions of the host property 47a, which would also contrast with the perfectly proportioned 47.
- Overlooking and loss of privacy generated by large, rear facing windows serving habitable rooms on the first and second floors.
- Concerns regarding future extensions or balcony that may be applied for.
- Impact on light to basement at 47.
- Lack of environmental sustainability measures.
- Unclear if there is sufficient parking to accommodate the additional bedroom.
- Contrary to Local Plan Policies CC1, CC2, and NE3.

Amended Two Storey Proposal

- Overlooking concerns from Juliet balcony.
- Loss of chimney.
- Number of new openings, their size and detailing.
- Disproportionately sized, would dominate the original building by virtue of scale and massing.
- Would not meet the proper assessment standards of a locally listed building - noted that the properties in question are not locally listed.

ASSESSMENT

Design and Impact on Heritage Asset & Conservation Area

The NPPF (2019) places an increased emphasis on the importance of achieving good quality design as a key aspect of sustainable development. Paragraph 130 states that planning decisions should ensure that developments are visually attractive as a result of good architecture, layout, and appropriate external facing materials. Development is expected to function well and add to the overall quality of the area by appearing sympathetic to the local character and history.

Local Plan Policy BE1 echoes paragraph 130 of the NPPF and states that new development will be permitted where it positively contributes to the character and quality of its environment through good layout and design. Proposals are expected to demonstrate that they harmonise with, or enhance, the existing settlement in terms of physical form, patterns of movement and land use. Proposals are also expected to reinforce or enhance the established urban character of streets and reflect, respect, and reinforce local architectural distinctiveness. The Council's adopted Residential Design Guide SPD provides guidance to help make the assessment of good design under Policy BE1.

Considerable importance and weight should be given to the duties set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, when making decisions that affect listed buildings and conservation areas respectively. These duties affect the weight to be given to the factors involved.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 explains that in considering whether to grant permission for developments affecting listed buildings or their setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 72 of the Planning (Listed Buildings and Conservation Areas) 1990 imposes a duty when exercising planning functions to pay special attention to the desirability of preserving or enhancing the character of a Conservation Area.

The NPPF states 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. This is supported by Policy HE1 of the Warwick District Local Plan 2011-2029 which states that development will not be permitted if it would lead to substantial harm to or total loss of the significance of a designated heritage asset, unless it is demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.

The initial proposal of a three-storey rear extension was objected to by both planning officers and the Conservation Officer on grounds of it being disproportionately large in comparison to the host dwelling and failing to be adequately subservient in scale, thereby competing with the original 'principal' dwelling and the core of the application property. It was considered that this would have a detrimental impact on the character of the conservation area and both properties 47 and 47a. It should be noted that the comments submitted by the Conservation Advisory Forum (CAF) and the initial public objection in the summary of representations relate to this initial proposal.

The application has since been amended down to two storey and retains the existing chimney following comments from CAF, the Conservation Officer, Royal Leamington Spa Town Council, and the neighbour. This amended scheme and associated consultations form the focus of this report.

Regarding the proposed depth, a precedent has been set by the previous approval under W/11/1422 for the single storey rear extension. It is noted that a first-floor addition would have a greater impact on scale than a single storey structure, but this impact is mitigated by the fact that it does not extend beyond the extent of the neighbouring dwellings, or beyond that which is existing on site, thereby not competing with either dwelling. Regarding the proposed height, the proposal has been revised down to a two-storey structure with a dual pitched gable end. The ridge of this gable now sits just shy of two meters below the eaves of the main dwelling. This is considered to satisfy the Conservation Officer and the Local Planning Authority in relation to subservience. As amended, it is not considered that the proposed extension would be competing with the main dwelling in terms of scale.

Regarding the fenestration details, objections have been raised regarding the proposed rear facing windows at first floor level. The thrust of these objections relates to the inappropriateness of the proposed details reading as a 'wall of windows' which would be uncharacteristic of the conservation area and the application property. This objection has been raised by the Town Council, CAF (initial design), and the neighbour. It is also noted that the neighbour makes reference to the previous application and the focus put on conditioning the large-scale details.

When considering whether or not the impact on the conservation area is acceptable, there are two main factors to consider in this case. The prominence or visibility of the proposed development in the street scene, and whether or not the proposed development would be incongruous with existing development. It

should be noted that the existing fenestration on the single storey rear extension was conditioned and considered acceptable to discharge by the conservation officer. This existing fenestration reads similar to what is being proposed now and, to this extent, the proposed fenestration would not be incongruous in the rear elevation.

Regarding the prominence or visibility, the Town Council, CAF, and the neighbour all raise that the proposed fenestration would impact the street scene, primarily due to the site's visibility from Barwell Close. It is accepted that views would be possible from Barwell Close, but the extent of these views and their nature should also be considered. Barwell Close is not a through road and serves approximately six dwellings which create a back-land development. It is therefore considered that the views are not prominent, or easily visible to the public in passing. It should also be noted that the proposed terminal height of the fenestration has been reduced from 6.4m to 5.8m, and that the width of the fenestration has been reduced from 4.3m to 3.5m, both of which reduce its prominence.

Given the existing fenestration to the rear elevation, and the contextual prominence of the development site, it is the view of the Conservation Officer that the impact of the proposed fenestration would not result in harm to the conservation area.

Additional objections include an objection to the introduction of windows in the side elevation. Those which are seen proposed in the original side elevation are considered to fall within the permitted development fallback position. Additionally, the first-floor side window proposed in the extension is considered to meet the policy standard of being obscure glazed. As with the roof lights, the Local Planning Authority considers it sufficient to condition all side facing windows in the first floor and above to be obscure glazed and non-opening up to 1.7m so to not impact on neighbouring amenity.

It is considered that the amended proposed development is suitably subservient in terms of scale and massing, and that the proposed fenestration would not have an unacceptable impact on the conservation area. It is therefore considered that the application complies with Local Plan Policies BE1, HE1, HE2, and the Residential Design Guide SPD.

Impact on Amenity

Policy BE3 of the Warwick District Local Plan states that new development will not be permitted that has an unacceptable adverse impact on the amenity of nearby uses and residents. Furthermore, the Residential Design Guide Supplementary Planning Document includes the 45 Degree Guideline which aims to prevent any unreasonable effect on the neighbouring property by reason of loss of daylight or sunlight and by creating an unneighbourly and overbearing effect.

An objection has been raised on two fronts in regard to unacceptable impact on neighbouring amenity. These relate to the impact on light access to a basement window at No.47, and the introduction of unacceptable overlooking from the first-floor windows.

Regarding loss of light, the Residential Design Guide SPD prescribes the 45-degree line for assessment of development on the light and outlook of neighbouring dwellings. This guidance states that generally side facing windows will not be considered for this 45-degree breach and that it should only be applied to habitable rooms. The room in question is a workshop and is not considered to be a habitable room. This combined with the window being in the side elevation means that the 45-degree line is not applicable and therefore it is not considered that the proposal would result in harm to living conditions.

Regarding overlooking generated from the Juliet balcony in the rear elevation, the neighbour has raised strong objections to this and has cited the Residential Design Guide SPD in relation to patios and balconies. However, Officers consider a distinction must be between an actual balcony and a Juliet balcony, the latter of which is essentially a pair of inward opening doors with an external guard rail. Juliet balconies are considered akin to a window in nature and are not considered to result in material harm to amenity by reason of overlooking and loss of privacy.

As mentioned previously, all side facing first floor and above windows will be conditioned to be obscure glazed and non-opening up to 1.7m to preserve the privacy of neighbouring dwellings.

It is considered that the application complies with Local Plan Policy BE3 and the Residential Design Guide SPD.

Ecology

The County Ecologist has recommended that a Preliminary Bat Roost Assessment should be requested prior to the determination of the application. I have considered this request and note that the existing dwelling is located within a built-up area with other dwellings in close proximity to the dwelling. I also consider that the application no longer proposes that the rear extension intersects with the main roof, reducing the potential impact on roosts.

On this basis, I do not consider that it is appropriate or practicable to request a bat survey be submitted. In coming to this conclusion, I am mindful of the location of the property, the characteristics of the local area and the fact that bats are a protected species under separate legislation and there is a duty of care by the applicants to ensure protected species are not harmed by the proposal.

On the basis of the above, I consider that the imposition of an explanatory note regarding the applicant's responsibility with regard to protected species is sufficient in this case.

The County Ecologist has also recommended that the applicant should demonstrate how the proposal would comply with biodiversity net gain. When considering the scale of development, amount of biodiversity loss, and the cost incurred by the applicant to provide the requested information, it is considered that the imposition of an explanatory note regarding the applicant's responsibility to biodiversity net gain is sufficient in this case.

Parking

An objection has been made questioning whether there would be enough parking spaces to provide for an additional bedroom. The application no longer results in the creation of an additional bedroom and as the existing development has more than 4 bedrooms, the required parking provision would not increase over the existing.

It is considered that the application would comply with Local Plan Policy TR3.

Other Matters

An objection has been raised in relation to the lack of environmental sustainability measures, stating that these would normally be required. This includes a statement that proposes that the development would not comply with Local Plan Policies CC1, CC2, or NE3.

These policies are not normally or reasonably applied to householder developments of this scale and there is no justification to change this approach for this application.

There are also no objections to the proposed roof lights. Those in the main roof are considered to have permitted development fallback, and those proposed on the extension will be covered by conditions for obscure glazing and large-scale architectural details.

Further objection comments suggest that the application site meets all the criteria to be considered for the local list, and as such, the application should be judged accordingly with stricter policy. As the property is not on the local list, it is considered unreasonable to assess the application as a non-designated heritage asset.

Summary

The proposals are considered to have an acceptable impact on the character and quality of the street scene and conservation area through the proposed layout, building materials and scale of the development. The proposals would also have an acceptable impact on the living conditions of neighbouring dwellings. The proposals are therefore in accordance with Local Plan Policies BE1, HE1, HE2, BE3, and the Residential Design Guide SPD. It is recommended this application is granted.

CONDITIONS

- 1 The development hereby permitted shall begin not later than three years from the date of this permission. **Reason:** To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawings 23102-002E, 23102-003E and specification contained therein, submitted on 09/10/2023. **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.

- 3 Prior to the occupation of the development hereby permitted, the proposed first and second floor windows in the north side elevation, and the proposed roof lights in the north and south side elevations, 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. **Reason:** To protect the privacy of users and occupiers of nearby properties and to satisfy the requirements of Policy BE3 of the Warwick District Local Plan 2011-2029.
 - 4 No development shall be carried out above slab level unless and until large scale details of doors, windows (including a section showing the window reveal, heads and cill details), eaves, verges and rainwater goods at a scale of 1:5 (including details of materials) have been submitted to and approved by the Local Planning Authority. The development shall not be carried out otherwise than in strict accordance with such approved details. **Reason:** To ensure an appropriate standard of design and appearance within the Conservation Area, and to satisfy Policy HE1 of the Warwick District Local Plan 2011-2029.
 - 5 No development shall be carried out above slab level unless and until samples of the external facing materials to be used have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details. **Reason:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policies BE1 and HE1 of the Warwick District Local Plan 2011-2029.
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