

Planning Committee: 03 August 2005

Item Number: 11

Application No: W 05 / 0872

Registration Date: 12/05/05

Town/Parish Council: Whitnash

Expiry Date: 07/07/05

Case Officer: Sandip Sahota

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8 Murcott Road West, Whitnash, Leamington Spa, CV31 2LB

Installation of replacement rear ground floor window FOR F & M Rodriguez

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

SUMMARY OF REPRESENTATIONS

Whitnash Town Council: The response originally received from the Town Council was one of "*no objection*". However, this decision was reconsidered to one of objection on the grounds "*Enforcement notice issued in November 2001. Planning applications submitted for this property do not always conform to what was submitted*".

Neighbours: Two letters of objection received on the following grounds: alteration to building which has been deemed to be overdevelopment; Live enforcement notice.

RELEVANT POLICIES

(DW) ENV3 - Development Principles (Warwick District Local Plan 1995)
DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011 First Deposit Version)
DP2 - Amenity (Warwick District Local Plan 1996 - 2011 First Deposit Version)

HEAD OF PLANNING & ENGINEERING

Background

In December 2000 planning permission was granted for a single storey rear extension which consisted of a *proposed conservatory; pitched roof over existing kitchen/ dining area, shower room extension together with replacement roof to utility room and garage*.
(Application W20001506).

During 2001, work commenced on the approved extension (W20001506) but not in accordance with the approved plans in terms of its roof design and external appearance. Following receipt of complaints, an application to retain the revised design of extension, was submitted (W20010877). The principal revision was the provision of a high blank rendered wall adjacent to the neighbour's boundary at no.6, but did also include a door rather than a

window in the rear elevation. This was because the proposed shower room had been brought into use as the kitchen area of the house. The Planning Committee following a site visit in October 2001 refused permission on the grounds of the height, scale and mass of the side gable elevation on the neighbour. An appeal was made and dismissed in May 2002. The Inspector considered that the "height, mass and appearance of the (kitchen) extension above the boundary fence presented a particularly jarring feature..."

Enforcement Notice - In November 2001, to ensure that the rear extension was modified to accord with the approved plans an Enforcement Notice was served. Once the outcome of the appeal (W20010877) was known, work on modifying the roof of the extension and elevations by no.6 then took place and the rear door was replaced by a window to accord with the rear elevation approved under W20001506. In April 2003 the Planning Committee agreed to take no further action in relation to the enforcement Notice, notwithstanding that there were minor variations to the approved plans in the 'as built scheme.

In April 2004 a planning application was submitted for the *erection of a rear covered way and insertion of a door to replace window*. This was refused by members in July 2004 for the following reasons:

"The rear of the residential property has already been extended recently by a large single storey pitched roof extension, including a conservatory. In May 2002 an appeal was dismissed to revise the design of the extension roof by no.6 Murcott Road West, and the Planning Inspectorate in the decision letter of May 2002 described the approved extension as of "significant proportions in relation to the existing dwelling and adjacent properties.

It is considered that the proposed provision of a covered way and door to the side of the conservatory, taking into account the significant proportions of the existing approved extension built onto the rear elevation would represent an unacceptable overdevelopment of the site in close proximity to the neighbouring property at no.6 and be contrary to Warwick District Local Plan 1995 policy (DW)ENV3- Development Principles".

An appeal was made but the Inspector dismissed it in April 2005 for the following reasons:

"The rear of the property has already been substantially enlarged. In my opinion, the addition now proposed would add to the disproportion of the existing extension, bringing about a cramped development style harmful to both character and appearance".

Assessment

The property comprises one half of a pair of semi detached houses that are broadly similar in design and appearance to neighbouring houses on the southern side of Murcott Road West. The dwelling is served by a 22 metre long rear garden that slopes upwards away from the rear elevation and is separated from the neighbouring gardens by 1.8 metre high (approx) fencing.

The proposal seeks to replace the existing window to the rear kitchen with a larger window (350mm wide) which would be approximately twice the width of the existing one.

The replacement of a window with a larger one on a residential property, as proposed, in normal circumstances, would be 'Permitted Development'. However, in this instance because of the enforcement notice on the rear extension it was considered appropriate to request a planning application because of the proposed change to the external appearance. This application was considered to be materially different from the one for the door and covered way and could not therefore be refused to be determined. The enforcement action taken to achieve reasonable compliance with the 2000 planning permission is a relevant factor, but this proposal has to be considered on its own merits.

The main issue to be considered is whether the proposal would cause significant material harm to the character and appearance of the extension and the immediate area and to the amenities of the neighbouring residents to justify planning permission being refused.

The Inspector's comments are a material consideration. I consider that his reason for refusal was largely based on the rear covered way which extended the footprint of the extension even further, therefore adding to the disproportion of the existing extension. However, simply changing the window would not result in any further enlargement of the extension.

Whilst I note the comments of the Town Council, I am unclear as to the harm identified in terms of this particular application. The neighbour's objections are also noted, but the provision of a larger window would not be seen from outside the site and I do not consider that it would cause an unreasonable degree of harm in design or amenity terms. I also do not consider that the proposal, in itself, is so intrusive to cause a significant material harm to the amenities of neighbouring residents as to warrant refusal.

REASON FOR RECOMMENDATION

The proposal is considered to comply with the policies listed above.

RECOMMENDATION

GRANT subject to the following conditions :

- 1 The development hereby permitted must be begun not later than the expiration of five years from the date of this permission. **REASON** : To comply with Section 91 of the Town and Country Planning Act 1990.
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawing, and specification contained therein, submitted on 12th May 2005 unless first

agreed otherwise in writing by the District Planning Authority. **REASON:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Local Plan Policy ENV3.

- 3 The window hereby permitted shall be of the same type as those of the existing building. **REASON :** To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.