

Planning Committee: 27 March 2018

Item Number: **16**

Application No: [W 18 / 0255](#)

Town/Parish Council: Leamington Spa
Case Officer: Helena Obremski

Registration Date: 07/02/18

Expiry Date: 04/04/18

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**The Coach House, 17A Sherbourne Terrace, Clarendon Street,
Leamington Spa, CV32 5SP**

Resubmission of W/17/2247: Retrospective application for conversion of existing annex to a separate dwelling (Coach House building to the rear of 17A Sherbourne Terrace, Leamington Spa) and regularisation of window and door details. FOR Ms T Gaston

This application has been requested to be presented to Committee by Councillor Thompson.

RECOMMENDATION

Planning Committee are recommended to refuse planning permission.

DETAILS OF THE DEVELOPMENT

Retrospective planning permission is sought for a change of use of the annex located within the rear garden area of 17A Sherbourne Terrace into a separate, one-bedroomed residential dwelling. The Design and Access Statement submitted with the application states that since planning permission was granted for the annex in 2010, that the site has been unlawfully used as a separate dwelling, and that the occupiers benefit from a parking permit, the property has a separate address, and has separate council tax to the main property.

The annex has not been constructed in accordance with the approved plans - an additional rooflight has been installed in the single storey wing and the approved rooflight in the front roofslope has been relocated. Furthermore, a garage door was installed within the front elevation, rather than traditional front door and window. This application seeks to regularise these amendments.

This is a resubmission of W/17/2247 which had the same description of development. No changes have been made to the scheme since this submission.

THE SITE AND ITS LOCATION

The application relates to a one and a half storey building located within the rear amenity area of 17A Sherbourne Terrace. The property was granted planning permission to be used as an annex to the main dwelling in 2010, and has a living area to the ground floor, with shower room, and bedroom to the first floor. The application site has been separated from the main dwelling by a high level fence, which provides a small enclosed courtyard area to the front/side of the building.

Access to the building is from Lower Villers Street. The application site is located within the Conservation Area.

Permitted development rights were removed for the insertion of any additional windows or alterations when the annex was granted planning permission to protect neighbouring residential amenity.

PLANNING HISTORY

W/09/1458 - Planning permission granted for the conversion and extension to garage to form granny annexe.

W/17/2247 - Application withdrawn for retrospective application for conversion of existing annex to a separate dwelling (Coach House building to the rear of 17A Sherbourne Terrace, Leamington Spa).

RELEVANT POLICIES

- National Planning Policy Framework
- The Current Local Plan
- BE1 - Layout and Design (Warwick District Local Plan 2011-2029)
- BE3 - Amenity (Warwick District Local Plan 2011-2029)
- CC2 - Planning for Renewable Energy and Low Carbon Generation (Warwick District Local Plan 2011-2029)
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets (Warwick District Local Plan 2011-2029)
- TR3 - Parking (Warwick District Local Plan - 2011-2029)
- H1 - Directing New Housing (Warwick District Local Plan 2011-2029)
- HS4 - Improvements to Open Space, Sport and Recreation Facilities (Warwick District Local Plan 2011-2029)
- HE2 - Protection of Conservation Areas (Warwick District Local Plan 2011-2029)
- HE1 - Protection of Statutory Heritage Assets (Warwick District Local Plan 2011-2029)
- Guidance Documents
- Open Space (Supplementary Planning Document - June 2009)
- Vehicle Parking Standards (Supplementary Planning Document)
- Residential Design Guide (Supplementary Planning Guidance - April 2008)
- Roofs on Listed Buildings & in Conservation Areas (Supplementary Planning Guidance)

SUMMARY OF REPRESENTATIONS

Leamington Spa Town Council: No objection.

Councillor Thompson: Supports application, the development provides adequate parking; the site has a nice amenity area which is larger than other properties which has no adverse impact on the amenity of other nearby users; the front of the house style amenity space is in keeping with nearby properties; the property has a front wall which acts as a security measure which is in keeping with the Conservation Area; the wall also complies with policy HS7 by

reducing the fear of crime and removing the wall would be harmful to the Conservation Area.

Environmental Protection: No objection.

Private Sector Housing: No objection, the bedroom window needs to meet escape window standards, and mains linked detection should be provided at ground and first floor levels.

Waste Management: No objection.

Open Space: No objection, subject to the provision of £1,228 towards the improvement of local open spaces.

Public Responses: Former Occupier: The accommodation is of good and comfortable standard, light is adequate and the views from the ground floor were not oppressive. The outside amenity space allowed for small patio table and space to dry clothes, and store a wheely bin. The site is in easy walking distance of the town centre and nearby transport links.

Current Occupier: The property has its own courtyard which catches the sun, which is quiet and secluded. The interior of the property is bright and spacious, offering privacy and space. Has private courtyard and private access, is close to the town centre and bus services.

ASSESSMENT

The main issues relevant to the consideration of this application are as follows:

- Principle of the Development
- The impact on the Character and Appearance of the Area
- The impact on the Conservation Area
- The impact on the living conditions of nearby dwellings and living conditions of the occupiers of the dwelling
- Car Parking and Highway Safety
- Drainage and Flood Risk
- Ecological Impact
- Open Space
- Waste
- Health and Wellbeing
- Other Matters

Principle of the Development

Local Plan policy H1 states that new housing will be permitted within the urban areas as identified on the proposals maps. Leamington Spa is an urban area, and therefore the principle of housing in this location is considered to be acceptable in principle.

The Impact on the Character and Appearance of the Area

The National Planning Policy Framework (NPPF) places significant weight on ensuring good design which is a key aspect of sustainable development and should positively contribute towards making places better for people. The NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving character, the quality of an area and the way it functions. Furthermore, Local Plan policy BE1 reinforces the importance of good design stipulated by the NPPF as it requires all development to respect surrounding buildings in terms of scale, height, form and massing. The Local Plan calls for development to be constructed using appropriate materials and seeks to ensure that the appearance of the development and its relationship with the surrounding built and natural environment does not detrimentally impact the character of the local area. Finally, the Residential Design Guide sets out steps which must be followed in order to achieve good design in terms of the impact on the local area; the importance of respecting existing important features; respecting the surrounding buildings and using the right materials.

A rooflight has been installed within the middle part of the main roofslope facing towards Lower Villers Street and a rooflight to the single storey wing has been installed. These are visible within the street scene, and were not part of the approved plans. In design terms, these alterations are not considered to be harmful to the street scene.

Although garage doors have been installed to the front elevation of the property, as the overall appearance of the property remains subordinate to the main dwelling, in the style of a Coach House, the doors are not considered to represent an incongruous feature which is out of keeping within the street scene. There are no further alterations proposed.

The development is therefore considered to be in accordance with Local Plan policy BE1 and the Residential Design Guide.

Impact on the Conservation Area

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 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.

Paragraph 132 of 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. Paragraph 134 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Policy HE1 of the Local Plan states that development will not be permitted if it would lead to substantial harm to the significance of a designated heritage asset. Where the development would lead to less than substantial harm to the significance of a designated heritage asset, this harm will be weighed against the

public benefits of the proposal. As a building within the Conservation Area, the application property is considered as a heritage asset. The explanatory text for HE1 clarifies that in considering applications relating to Conservation Areas, the Council will require that proposals do not have a detrimental effect upon the integrity and character of the building or its setting, or the Conservation Area. Local Plan policy HE2 supports this and states that it is important that development both within and outside a Conservation Area, including to unlisted buildings, should not adversely affect its setting by impacting on important views and groups of buildings within and beyond the boundary.

The annex was not constructed in accordance with the approved plans; there are additional rooflights, some of which have been relocated and a garage door has been installed to the front elevation of the property. Therefore, the existing structure is in breach of condition which could still be subject to enforcement action, being within 10 years of the date of construction. There was also a condition for large scale details attached to the previous permission for the annex which was not discharged, which sought to ensure a high quality of design and to protect the character of the Conservation Area.

In Conservation Areas, the Council has adopted guidance in reference to roof alterations which specifically states that traditional rooflights, set flush with the roofslope should be used which avoid a considerable upstand. The installed rooflights however are set in an upstand which protrudes well from the existing roofslope, which is contrary to the Council's adopted guidance. As these affect views within the Conservation Area, their installation is considered to be harmful to the traditional character of the Conservation Area, a view which is shared by the Conservation Officer. Allowing these rooflights could set a harmful precedent which Officers would seek to avoid.

The Conservation Officer has confirmed that the use of the garage door to the front elevation is acceptable. The use of a traditional timber tongue and groove door, with metal brackets is considered to be appropriate within this context.

The installation of non-Conservation style rooflights is considered to be harmful to the Conservation Area. There are no public benefits which would outweigh the harm caused to the Conservation Area as a result of the installation of the incongruous rooflights. The development is therefore considered to be contrary Local Plan policy HE1 and the adopted relevant guidance.

The impact on the living conditions of nearby dwellings and living conditions of the occupiers of the dwelling

Local Plan policy BE3 requires all development to have an acceptable impact on the amenity of nearby users or residents and to provide acceptable standards of amenity for future users or occupiers of the development. There is a responsibility for development not to cause undue disturbance or intrusion for nearby users in the form of loss of privacy, loss of daylight, or create visual intrusion. The Residential Design Guide provides a framework for policy BE3, which stipulates the minimum requirements for distance separation between properties and that extensions should not breach a 45 degree line taken from the window of the nearest front or rear facing habitable room of a neighbouring property.

Impact on neighbouring properties

The change of use relates to an existing building which has permission. Although the property was not built in accordance with the approved plans, the overall size of the building has not been increased. As there have been no additional windows installed which face towards neighbouring dwellings, it is not considered that the change of use is harmful to neighbouring amenity.

Living Conditions for the Occupiers of the Dwelling

The ground floor of the property has windows which look out over the courtyard and also towards the boundary treatment separating the building from 17A Sherbourne Terrace serving the main living space. The windows looking towards the shared boundary treatment have a very constrained outlook, being positioned just 0.6 metres from a high level close-boarded timber fence. The distance between the windows overlooking the courtyard and the high-level boundary wall fronting onto the highway is just 4.2 metres. Any windows serving a habitable room facing onto a blank elevation should have a distance separation of at least 12 metres. The outlook for these windows therefore falls significantly below the Council's adopted guidance, and as this is the main living space serving the property, this provides very poor living conditions for the occupiers, with a very constrained outlook and lack of natural light.

The only window serving the bedroom at first floor is a rooflight. This is not considered to provide adequate levels of outlook for the occupiers of the property. The agent makes reference to a property which was approved diagonally opposite to the site, where there are bedrooms with rooflights (10 Lower Villers Street - W/05/0570). However, although this property has rooflights serving habitable rooms, there are also windows in the elevations serving these spaces which provide outlook for the occupants.

Furthermore, the courtyard is not considered to provide adequate amenity space for the occupiers of the dwelling. The usable outside space serving the property is only 11.76sqm. The small nature of the amenity area is further exacerbated by the overly high close-boarded timber fence which has been installed (without permission) to separate 17A Sherbourne Terrace from the application site, and the high level brick built boundary wall fronting the highway. This provides an overbearing, oppressive and closed-in space which is not considered to provide adequate outside amenity space for the occupiers of the dwelling.

Councillor Thompson states that the brick boundary wall is necessary for security reasons and that its removal would be harmful to the Conservation Area. The Council agrees that its removal would be harmful to the Conservation Area and does not recommend this as a solution to overcome Officer's concerns.

The agent makes reference to the property diagonally opposite to the application site and the fact that it has a similar size amenity area. This property has an amenity area of 25sqm, which is larger than the amenity area serving the application site. Furthermore, this dwelling was approved some 13 years ago, under the previous Local Plan. Importantly, the neighbour's amenity space is open to the road and does not have high-level solid boundary treatments making it feel closed-in or oppressive, therefore making the amenity space of the

neighbour opposite a much more pleasant space. This is the same situation with other examples of nearby amenity areas which have been presented by the agent which are a similar size to the application site.

It is acknowledged that the current and previous occupiers have commented on the application and note that the living conditions are acceptable. Councillor Thompson also considers the property provides adequate living conditions. However, the Council has a duty to protect the living conditions of future occupiers of the dwelling and maintain minimum living standards across the District.

The overly constrained nature of the site, in that it provides an inadequate amount of outdoor amenity space which is closed in and has overbearing and oppressive boundary treatments, and the fact that there is inadequate outlook from any of the habitable rooms from the windows, and a lack of light to the ground floor living space, leads Officers to conclude that the dwelling provides unacceptable living conditions for the occupiers of the property.

The development is therefore considered to be contrary to Local Plan policy BE3 and the Council's adopted guidance on distance separation.

Car Parking and Highway Safety

The car parking requirement for the dwelling would be one space. There is unrestricted on street car parking along Lower Villers Street (where the property is accessed) and permit parking along Sherbourne Terrace. Officers have not yet received formal comments from WCC Highways regarding the application, and the Planning Committee will be updated prior to the meeting with these details.

However, under the previous application which was withdrawn, WCC Highways stated that if the existing access in front of the dwelling was closed, and the kerb was reinstated, that they would have no objection to the development, which could be secured by condition. By reinstating the kerb, this increases the on street parking by one space, and therefore there would be no net increase in parking as a result of the change of use. As there have been no alterations to the proposal since the withdrawal of the previous application, Officers understand that WCC Highways comments would remain the same, and that the development would not have a detrimental impact on highway or pedestrian safety.

Drainage and Flood Risk

There are no extensions or alterations proposed as part of the application, and therefore no additional details in reference to drainage are required. It is noted that the application site lies outside of Flood Zones 2 and 3.

Ecological Impact

No issues.

Open Space

The Open Space department have commented on the application and note that the additional residents brought about by the development will put pressure on existing open space and a contribution is required to mitigate the impact of this additional use. The Open Space department have therefore requested a contribution of £1,228 towards the improvement of local open spaces. This contribution would be put towards the development objectives of Christchurch Gardens, specifically relating to street furniture improvements. Christchurch Gardens scored only "Average" in a number of aspects in the latest Parks Audit and at the time of responding, there were no Section 106 Agreements assigned to the various projects within this open space.

No open space contribution has been received by the Council, and therefore the development is considered to be contrary to adopted Local Plan policy HS4 and the Council's adopted relevant supplementary planning document.

Waste

Waste Management have no objection to the change of use. Waste and recycling can be stored within the site boundaries without impacting the street scene.

Health and Wellbeing

No health or wellbeing benefits are identified.

Other Matters

Private Sector Housing has commented on the application and stated that the bedroom window needs to meet escape window standards, and mains linked detection should be provided at ground and first floor levels. These matters would be dealt with by Building Control.

Conclusion

The installation of the incongruous rooflights are considered to be harmful to the Conservation Area which is contrary to Local Plan policy HE1 and the Council's adopted guidance on roof alterations to heritage assets. Furthermore, the property is considered to have a lack of adequate outlook and light to habitable rooms serving the property owing to substandard distance separation and reliance on the use of rooflights. This is considered to provide substandard living conditions for the occupiers of the property. The proposal also fails to provide an adequate outside amenity space for the occupiers of the dwelling, which is considered to be constrained, cramped and oppressive. The development is therefore considered to be contrary to Local Plan policy BE3 and the Council's adopted distance separation guidance. Finally, as no open space contribution has been received by the Council, the development is considered to be contrary to Local Plan policy HS4 and the relevant adopted guidance. For these reasons, Officers consider that the application should be refused.

REFUSAL REASONS

- 1 The Council has adopted guidance in relation to alterations to roofslopes in the Conservation Area which specifically states that traditional rooflights, set flush with the roofslope should be used which avoid a considerable upstand. The installed rooflights however are set in an upstand which protrudes well from the existing roofslope. These affect views within the Conservation Area, and therefore their installation is considered to be harmful to the traditional character of the Conservation Area, and could set a dangerous precedent which the Council would seek to avoid.

The development is thereby considered to be contrary to Local Plan policies HE1, HE2 and the adopted relevant guidance on alterations to roofslopes within the Conservation Area.

- 2 Policy BE3 of the Warwick District Local Plan 2011-2029 states (inter alia) that development will not be permitted which has an unacceptable adverse impact on the amenity of nearby uses and residents and/or does not provide acceptable standards of amenity for future users/occupiers of the development. Furthermore, the District Council has also adopted Supplementary Planning Guidance on minimum distance separation between properties which aims to prevent any unreasonable effect on the neighbouring properties or future occupiers by reason of loss of privacy, outlook or sunlight, and by creating an unneighbourly and overbearing effect.

The property is considered to have a lack of adequate outlook and light to habitable rooms serving the property owing to substandard distance separation and reliance on the use of rooflights. This is considered to provide substandard living conditions for the occupiers of the property. The proposal also fails to provide adequate outside amenity space for the occupiers of the dwelling, which is considered to be constrained, cramped and oppressive.

The proposal is thereby considered to be unneighbourly and contrary to the aforementioned policy and guidance.

- 3 Policy HS4 of the Warwick District Local Plan 2011 - 2029 states that contributions from residential developments will be sought to provide, improve and maintain appropriate open space, sport or recreational facilities to meet local needs. The Council have also adopted a Supplementary Planning Document entitled Open Space together with associated guidance on developer contributions for commuted payments for off-site provision and enhancement of public open space where it is not provided on site.

The Open Space team have requested a contribution of £1,228 towards identified improvements to local open spaces. No unilateral undertaking

has been put forward to secure such a contribution and therefore, in the opinion of the Local Planning Authority, the proposals do not make adequate provision for open space.

The proposals would therefore be contrary to the aforementioned policy and guidance.
