

Planning Committee: 06 September 2011

Item Number: 10

Application No: W 11 / 0800

Town/Parish Council: Kenilworth
Case Officer: Liz Galloway

Registration Date: 22/06/11

Expiry Date: 17/08/11

01926 456528 planning_west@warwickdc.gov.uk

59 Waverley Road, Kenilworth, CV8 1JL

Construction of a rear decked area (retrospective application) FOR Mr A Sayers

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

SUMMARY OF REPRESENTATIONS

Kenilworth Town Council: (15th July, 2011) NO REASON TO OBJECT

Kenilworth Town Council: (2nd August, 2011) Planning application W20110800, 59 Waverley Road had been recalled following the receipt of additional information not available to the Committee on 14 July 2011. Members further considered the proposal and its supporting documentation and it was: RESOLVED unanimously that Warwick District Council be advised that this Council now OBJECTED to the application on the grounds that the proposal was unneighbourly by virtue of it overlooking the neighbouring property and causing loss of amenity. Members strongly recommended that should Warwick District Council be minded to grant the application then a site visit should first be undertaken in order to assess the full perspective of the proposal and its impact.

C.A.A.F: No objection

1 public response: Objects on grounds of visual intrusion, loss of privacy, scale, height and form, conflict with the 45 degree guideline, overlooking, potential loss of daylight and does not respect the surrounding buildings

RELEVANT POLICIES

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DAP9 - Unlisted Buildings in Conservation Areas (Warwick District Local Plan 1996 - 2011)
- DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)

PLANNING HISTORY

There is no relevant planning history.

KEY ISSUES

The Site and its Location

The application property is a terraced dwelling located to the East of Waverley Road and situated within a Conservation Area.

Details of the Development

The applicant has constructed a raised wooden decking area with retaining wall on the rear of the property.

Assessment

The existing decking area will be situated at the rear of the property and will not be visible within the street scene, therefore, I am satisfied that there will be no adverse impact on Waverley Road. Also, as the decking is constructed using timber with a brick retaining wall, which uses very similar bricks to the bricks used on the main house, I am satisfied that there will not be any significantly affect the character or appearance of the existing house or the Conservation Area.

Neighbour number 61 lies to the South of the application site and has a single storey side extension which runs the whole depth of the patio area. Furthermore, this neighbour has a raised wooden decking area with retaining wall which is set on a higher ground level to the application site. The boundary nearest the raised decking area has wall with fence above and plenty of shrub and tree screening, therefore, I consider that this neighbour will not seriously suffer from overlooking or from loss of light.

Neighbour number 57 has objected to the proposal on grounds of visual intrusion, loss of privacy, scale, height and form, conflict with the 45 degree guideline, overlooking, potential loss of daylight and does not respect the surrounding buildings. The plans and photos indicate that the site previously contained a patio area which was covered by paving slabs and sloped gently away from the rear of the property towards the main garden area. When this original patio area was in use, the applicants could easily see over a 1.3 metre high boundary wall and 1.2 metre high boundary fence, hence, the neighbour at number 57 could also look into the applicant's rear garden area. There is no doubt that both neighbours could freely look into each others amenity areas due to the fact that the boundary wall and fence along the boundary is of a lower height than usual. Therefore, I do not consider that the retrospective raised patio, taken from any area, would significantly increase the amount of overlooking or loss of privacy to neighbour number 57. Therefore, it has to be recognised that the juxtaposition of the two houses and their design, has always led to a degree of overlooking between the two properties.

I accept that the raising of the decking at the application property has somewhat worsened the situation, but I do not consider that the increase brought about is sufficient to merit a refusal of planning permission and enforcement action.

In coming to this conclusion I particularly note the photo from the neighbour's

property which shows the applicant standing on the raised deck and this person would have had almost as good a view before the area was raised.

I am aware that the applicant has tried to lessen the impact on neighbour number 57 by the planting of shrubs on the boundary between the two properties, however, whilst I am aware that shrubs and trees do not necessarily count as a solution to an overlooking problem that already exists, this is not recognised as a planning issue and cannot be dealt with as such under the planning system. If these shrubs were removed the situation would be significantly worse, however, these have been seen as a problem by the occupier of number 57 Waverley Road.

In conclusion, whilst I acknowledge the fact that the proposal does have some impact on the neighbouring property, there is insufficient evidence of harm to justify a refusal of permission. I understand that the application is controversial, and it would, in my opinion, be a suitable candidate for a Councillors' site visit before committee.

RECOMMENDATION

Grant, subject to the conditions/refusal reasons listed below.

CONDITIONS

- 1 The development hereby permitted shall be retained strictly in accordance with the details shown on the approved drawings of the garden side elevation and plan showing decking in relation to whole garden, and specification contained therein, submitted on 22nd June, 2011 and 14th July, 2011 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 Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.

INFORMATIVES

For the purposes of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, the following reason(s) for the Council's decision are summarised below:

In the opinion of the District Planning Authority, the development would not cause unacceptable harm to the architectural and historic character of the Conservation Area within which the site is located. Furthermore, the proposal would not adversely affect the amenity of nearby residents. The proposal is therefore considered to comply with the policies listed.
