

Application No: W 12 / 0068

Town/Parish Council: Leamington Spa
Case Officer: Sunita Burke

Registration Date: 10/02/12

Expiry Date: 06/04/12

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Rear of 52 & 54, Leam Terrace, Leamington Spa, CV31 1BQ
Retention of alterations to the boundary wall between rear 52 & 54 Leam
Terrace FOR Mr G Saunders

This application is being presented to Committee due to the number of supporting comments received and to request authority for enforcement action.

SUMMARY OF REPRESENTATIONS

Royal Leamington Spa Town Council: "No objection is raised and the following comment is made: Members support the rebuilding of the party wall to its original Victorian design".

Conservation: Objection

"This application is a retrospective application for the reconstruction of a party wall between two Listed properties.

I was consulted by letter concerning the reconstruction of the wall and an Engineer's Report was submitted with the letter (without photographs or complete drawings of the whole wall). The letter contained the following:- "There will need to be some minor modifications, including below ground, to rectify the structural flaws in the current build" (see Structural Engineer's Report).

I responded as follows: "I note that the wall is to be rebuilt using sound second-hand Leamington bricks and repointed where reconstruction is not necessary. Subject to the wall being reconstructed to match the original I do not consider that Listed Building consent would be required in this instance". The wall was not constructed to match the original as a swept section adjacent to the house was removed and the wall overall increased in height. I do not consider that removing a swept feature on the wall is a **minor modification** that did not need to be mentioned in the original letter. I therefore now consider that clearly retrospective consent is required for the removal of this feature.

The Heritage Statement places emphasis on the fact the rear part of the properties are not mentioned in the Listing however the descriptions of the mid 1990s do not include every feature in the building and do not include a statement of significance and therefore it is the Local Authority's (or in certain cases English Heritage's) to ascertain what is important or of historical significance in terms of each property. I note also that several other applications are noted and I would comment that each is considered on its own merits and that these cannot be used as comparisons.

In terms of the section of wall that has been lost it had a significant sweep and mirrored the swept balcony details of number 54 (from a photo I have seen). Historically this may be older than the swept details on number 54 as the bricks, from a photograph of the wall, appear to be of the 19th Century, however there is no recorded evidence and difficult to age the swept features both on the wall and the adjacent property.

I am however of the opinion that the swept top to the wall was a feature of interest between the two Listed properties and marked the change in boundary treatment between the Villas in Leam Terrace and slightly earlier terraced properties, which do have basement areas at the back which is not a feature of the Villas. I therefore consider that the wall should have been rebuilt to its pre reconstruction appearance and strengthened as necessary to achieve this.

I therefore do not consider that the wall as reconstructed, without consent, should be granted, given the interesting feature that has been lost".

CAAF: "Part II Item No comment".

Public Responses: 11 letters of objections have been received, and 13 letters of support. They are summarised as follows:

Objections

- Wall was rebuilt without sensitivity to the building;
- Wall was not built in accordance with the Party Wall Act;
- The rebuilt wall has a negative impact on adjacent property;
- Loss of outlook and loss of light;
- The architectural alterations are not in keeping with the original;
- Height of the rebuilt wall is unacceptable;
- Demolition and rebuilding has weakened the remainder of the party fence/wall;
- The 'Swept Wall' could have been repaired, re-pointed, and its coping renewed; and
- The wall could have been repaired rather than rebuilt.

Supporting comments

- Traditional materials and construction methods used in rebuilding the wall;
 - Condition of the wall was in a very poor state requiring rebuilding;
 - The wall was leaning badly over 52 Leam Terrace;
 - Reconstructed wall has been built to a high standard;
 - Do not want to go into an official dispute over the Party Wall Award;
 - Built in line with the Party Wall Award documentation; and
- The wall is restored to its rightful character.

RELEVANT POLICIES

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DAP4 - Protection of Listed Buildings (Warwick District Local Plan 1996 - 2011)
- DAP7 - Restoration of Listed Buildings (Warwick District Local Plan 1996 - 2011)

- DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)
- The 45 Degree Guideline (Supplementary Planning Guidance)
- Residential Design Guide (Supplementary Planning Guidance - April 2008)

PLANNING HISTORY

There is no relevant planning history for this application.

KEY ISSUES

The Site and its Location

The planning application relates to the boundary wall between 52 and 54 Leam Terrace, which are Georgian Grade II Listed Buildings. It is within a predominantly residential area with three to four storey terraced buildings.

The boundary wall is curtilage listed, originally built in the 1890's, with later modifications. This boundary wall is situated at the rear of 52 and 54 Leam Terrace, and adjoins the rear building lines of the two properties. As a consequence of the different ground levels between the two properties, the lower part of the wall is only visible from 52 Leam Terrace, which serves as the retaining part of the wall.

Details of the Development

The planning application is for the retention of the boundary wall between 52 and 54 Leam Terrace. It extends beyond the building line by approximately 3.2 metres and is 5.2 meters high from ground level of 52 Leam Terrace and approximately 3.68 meters high from the ground level at 54 Leam Terrace. The wall is 9" wide retaining and constructed with reclaimed brick with saddle back coping stones on top. The design of the wall has been altered from a swept top to a flat top.

Assessment

The main issues for consideration are:

- Impact on the architectural interest of the listed building, and the character and appearance of the Conservation Area; and,
- Impact on the living conditions of neighbouring dwellings.

Impact on the Listed Building and Conservation Area

The Council's Conservation Architect raises an objection to the design of the wall, namely the flat top, and its impact on the listed building. The previous wall removed had a swept detail which matches the detailing along the existing balcony of 54 Leam Terrace, and is therefore considered a special architectural feature of the listed building important to its integrity. Whilst this is disputed by the applicant, and there is no evidence to conclusively prove the wall was originally built with either a swept top or flat top, it clearly did exist prior to its removal and replicated features that exist today on the listed property which are considered important and worthy of retention as part of the character of the building. It is therefore considered to be contrary to Policy DAP4 of the Local Plan.

As the wall is to the rear elevation, it is not visible from public viewpoints within the Conservation Area and is therefore not considered harmful to the character and appearance of the Conservation Area.

Impact on the living conditions of neighbouring dwellings

The wall would cause an unacceptable adverse impact to the Basement and Ground Floor flats at 52 Leam Terrace through loss of natural daylight and overshadowing, contrary to Policy DP2 of the Local Plan and the Council's 45 degree guidelines. However, the applicant has submitted three computer generated models on daylight and sunlight analysis comparing the impact of the existing and previous wall on the amount of direct sunlight to the Basement and Ground floor flats at 52 Leam Terrace. This demonstrates that the difference between the two walls in terms of loss of light is marginal, and therefore the previous wall would have had a similar impact on the living conditions of both flats. Given the architectural importance attached to the previous wall and its design referred to above, it would be preferential in listed building terms to reinstate the wall to its previous form, even though this itself has a similar adverse impact on living conditions. In these circumstances, it is therefore considered it would be unreasonable to refuse permission for the retention of the wall on the grounds of impact on living conditions of the neighbouring dwellings.

Other comments have been made in relation to the Party Wall Act, and the impact of the works on the remainder of the properties, but these are not matters relevant to the consideration of this application.

RECOMMENDATION

REFUSE, for the reason listed below and authorise appropriate enforcement action to reinstate the wall to its previous design and form within a period of 2 months.

REFUSAL REASONS

- 1 Policy DAP4 of the Warwick District Local Plan 1996-2011 states that consent will not be granted to alter or extend a listed building where those works will adversely affect its special character or historic interest, integrity or setting.

In the opinion of the District Planning Authority, it is considered that the retention of the wall would result in the loss of the swept top feature to the wall which is a special architectural design feature of no. 54 Leam Terrace as it features on the balcony of the property, and its loss would adversely affect the special architectural interest of the listed building.

The development is thereby considered to be contrary to the aforementioned policy.
