

**Planning Committee:** 21 June 2022

**Item Number:** 11

**Application No:** [W 22 / 0432](#)

**Town/Parish Council:** Leamington Spa  
**Case Officer:** Michael Rowson

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**Registration Date:** 09/03/22

**Expiry Date:** 04/05/22

### **27 Eastfield Road, Leamington Spa**

Variation of Condition 8 (obscure glazing) of planning permission ref: W/20/2126 (Demolition of existing dwellinghouse and of erection of replacement dwellinghouse together with associated hard & soft landscaping works) to remove reference to the south facing landing window FOR Mr & Mrs Darling

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This application has been presented to Committee due to the number of objections having been received.

### **RECOMMENDATION**

Planning Committee is recommended to grant permission, subject to the conditions listed at the end of this report.

### **DETAILS OF THE DEVELOPMENT**

The application is for the variation of condition 8 (obscure glazing) of planning permission ref: W/20/2126, which was for the erection of a replacement dwelling, to permit the replacement of obscure glass with clear glass for a window in the first-floor south elevation which serves the landing.

### **SITE DESCRIPTION**

The site is at the east end of Eastfield Road, a cul-de-sac which appears to originally have been a rear service road for dwellings facing onto Newbold Terrace East to the south and Upper Holly Walk to the north. At the point of site visit, a two-storey detached house was under construction at the site. The principal elevation of that dwelling faces west, like the dwelling it replaced.

To the north of the site are the large grounds of the modern apartment block known as Whittle Court. The rear element of the northern boundary is flanked by the rear gardens of residential properties known as The Grange, Upper Holly Walk.

To the east is the substantial rear garden area of the property, measuring approximately 65 metres from the rear elevation of the dwelling, stretching towards the rear of the properties forming a cul-de-sac of 9 dwellings on Newbold Terrace East.

To the south are the rear elevations of other properties that also front the main highway of Newbold Terrace East. Two of these properties (Nos.37 and 38) are Grade II Listed Buildings.

To the west is the carriageway of Eastfield Drive. The road has a range of modern properties that front onto the road together with outbuildings associated with the older dwellings that front onto adjacent streets.

The property is on the very edge of the Leamington Spa Conservation Area. The Conservation Area boundary cuts across the centre of the site.

### **RELEVANT PLANNING HISTORY**

W/20/2126 - Demolition of existing dwellinghouse and of erection of replacement dwellinghouse together with associated hard & soft landscaping works - Granted 1 July 2021.

The Committee Report did not include a condition relating to obscure glazing of the subject window. However, Members resolved at the July 2021 Planning Committee Meeting that permission be granted, subject to a condition requiring this window to be obscure glazed.

### **RELEVANT POLICIES**

- National Planning Policy Framework
- DS1 - Supporting Prosperity
- DS3 - Supporting Sustainable Communities
- DS5 - Presumption in Favour of Sustainable Development
- SC0 - Sustainable Communities
- BE1 - Layout and Design
- BE3 - Amenity
- TR1 - Access and Choice
- TR3 - Parking
- CC1 - Planning for Climate Change Adaptation
- HE1 - Protection of Statutory Heritage Assets
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE3 - Biodiversity
- NE5 - Protection of Natural Resources
- Guidance Documents
- Parking Standards (Supplementary Planning Document)
- Residential Design Guide (Supplementary Planning Document- May 2018)
- Royal Leamington Spa Neighbourhood Plan 2019-2029
- RLS1 - Housing Development Within the Royal Leamington Spa Urban Area
- RLS2 - Housing Design
- RLS3 - Conservation Area
- RLS12 - Air Quality
- RLS13 - Traffic and Transport

### **SUMMARY OF REPRESENTATIONS**

**Royal Leamington Spa Town Council:** No objection.

**Conservation Officer:** No objection.

**Public Response:** 8 objections have been received on grounds of loss of privacy to rear gardens and properties due to overlooking and the proposal being contrary to the Residential Design Guide SPD.

## **ASSESSMENT**

### Impact on neighbouring living conditions

The window in question is positioned in the south elevation of the dwelling under construction at the site and will serve a first-floor landing area within that dwelling. The window is larger than average, measuring 2.7m in height and 2.4m in width. The window is to be recessed behind the main elevations of the building, somewhat limiting the field of view from it.

The closest neighbours to the south are Nos. 37-40 (consecutive) Newbold Terrace East and a number of those neighbours have objected to the proposal on grounds of loss of privacy and overlooking of their rear gardens and rear facing windows.

Local Plan Policy BE3 seeks to prevent any unacceptable adverse impact on the amenity of nearby residents. Warwick District Council's Residential Design Guide SPD includes minimum separation distances for various scales of buildings. One of the intentions stated within the Guide is to "*provide a consistent approach to the decision-making process thereby securing a level of certainty for architects, designers and those wishing to carry out development, thus avoiding potential confrontation and delay*". The Guidance is not intended to be the only material consideration and other material considerations also need to be taken into account.

The SPD stipulates a minimum separation distance of 22m between two storey dwellings, and a separation distance of 27m between a two-storey dwelling and a two-storey building with the first floor comprising habitable rooms other than bedrooms (for example a two-storey building separated into flats with living spaces facing towards the dwelling). A minimum separation distance of 27m is stipulated between a three-storey dwelling and a two-storey dwelling.

The dwelling under construction has small areas of mezzanine floor within the roof space. However, it is considered to be a two-storey dwelling for the purposes of this assessment.

The closest, and therefore most impacted, neighbours are Nos.39 and 40 Newbold Terrace East. No.40 Newbold Terrace East is a part two storey, part three storey dwelling with the three-storey section facing Newbold Terrace East and a large two storey element at the rear. The relationship between the closest rear facing windows (in the two-storey element) at that property would be the same as two, two storey dwellings and therefore a 22m separation distance is required by the SPD. The distance between the two properties is approximately 25m, thereby exceeding the minimum distance stipulated in the SPD. In addition, the third-floor rear facing windows are separated by at least 27m as required.

No. 39 Newbold Terrace East is the handed version of No.40 and has been subdivided into flats. A resident of that building has confirmed that the rear facing window at ground floor level serves a kitchen and that the rear facing window at

first floor level serves a bedroom. This is the same relationship as if the building were a two-storey dwelling and therefore a 22m separation is considered relevant here. The proposal exceeds this distance. The third-floor rear facing windows are over 40m distant, exceeding the guidance distance.

Other material considerations also need to be taken into account. These include the fact that the window in question serves a landing area, not a habitable space, and therefore there is less likelihood of actual overlooking arising, although it is recognised that the size of the window may lead to a greater perception of perceived overlooking.

The applicant notes that No.39 has no rear boundary wall and that a pedestrian would be able to see into the rear facing ground floor windows to a greater degree than from the subject window. This has been considered along with the fact that a vehicle is often parked outside the ground floor window at that property which further limits loss of privacy (this is evidenced by site visits and historic aerial photography).

The other dwellings within the terrace are a greater distance from the subject window and are separated by rear boundary walls and / or outbuildings, further reducing the impact on the perceived or actual loss of privacy at those properties, especially at ground floor level.

## **CONCLUSION**

Officers are satisfied that the relative distances satisfy/ exceed the minimum distances stipulated in the SPD. This separation distance, alongside other material considerations, is considered acceptable to prevent any unacceptable loss of privacy at neighbouring properties and it is therefore considered unnecessary to require the window in question to be obscure glazed.

Based on the above, the application to remove reference to the landing window from the obscure glazing condition is recommended for approval.

## **CONDITIONS**

- 1 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing(s) 235-090 Rev B, 235-091 Rev A, 235-092 Rev A, 235-095 Rev A, 235-096 Rev A, 235-097, 235-098 and 235-099, and specification contained therein, submitted on 21 December 2020; unnumbered documents and plans titled 'Entrance Door Image', 'Facing materials 1', 'Facing materials 2', 'Facing materials 3', 'Fixed window', 'Frameless roof window', 'Natural zinc weathering', 'SiooX cedar weathering' and 'Wildflower Blanket System', received on 26/11/2021; document titled 'Sky Garden Wildflower Blanket Data Sheet SGWB01', submitted on 16 February 2022; documents and plans titled 'Typical drawing cortizo single door', '20mm 2 TRACK - LogiKal - Section', '20mm Virtually', 'Frameless - 3 panel on a triple track O2551-01', 'External Door Thresholds 235/615', 'Window Cills 235/616', 'Eaves Details 235/620', 'Eaves Details 235/630', 'Parapet Details 235/635', 'Automated Main Entrance/Vehicle Gate

235/697', 'Main Entrance Door D10 235/698', 'Cortizo Fixed Window Detail' and 'Cortizo window typical CAD', received on 26 November 2021; and unnumbered plan, titled 'Block Plan', submitted on 11 May 2022. **REASON:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 and 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.

2 The development hereby permitted shall only proceed in strict accordance with the approved document titled 'CMP (Construction Management Plan) Version 3 2021.09.05', received on 05/09/2021. **REASON:** In the interests of highway safety and the amenities of the occupiers of nearby properties, the free flow of traffic and the visual amenities of the locality in accordance with Policies BE3, TR1 and NE5 of the Warwick District Local Plan 2011-2029.

3 Prior to the first occupation of the development hereby permitted, details of at least one appropriate replacement tree species for each tree removed as a result of the development shall be submitted to and approved in writing by the Local Planning Authority to mitigate for the loss of the trees to be removed as part of the development and the location shall be identified on a layout plan.

Thereafter, the tree shall be planted within the first planting season following the first occupation of the dwelling. Should the tree fail within the first five years after planting, they shall be replaced with an equivalent species.

**REASON:** To protect and enhance the amenity of the area and in the interests of Biodiversity.

4 The development hereby permitted shall not be occupied unless and until a scheme showing how a water efficiency standard of 110 litres per person per day based on an assumed occupancy rate of 2.4 people per household (or higher where appropriate) will be achieved has been submitted to and approved in writing by the Local Planning Authority. The dwelling shall be first occupied until the works within the approved scheme have been completed in strict accordance with the approved details and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications. **Reason:** To ensure the creation of well-designed and sustainable buildings and to satisfy the requirements of Policy FW3 of the Warwick District Local Plan 2011-2029.

5 Prior to the occupation of the development hereby permitted, the bedroom window located on the south elevation 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 window 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.