

**Planning Committee:** 12 June 2012  
**Application No:** ENF 277/38/11

**Item Number: 19**

**Case Officer:** Phillip Hopkinson  
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**94 Northumberland Road, Leamington Spa, CV32 6HG**

Extension not being built in accordance with planning permission  
Property Owner(s) Mr Dey and Mrs Hughes

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**BACKGROUND**

On 19<sup>th</sup> September 2011 it was brought to the attention of the Enforcement Section that the building works being undertaken at No. 94 Northumberland Road, Leamington Spa, did not accord with the plans approved under application W10/0543 on 14<sup>th</sup> June 2010 for the erection of single and two storey rear extension; removal of front dormer window and erection of roof extension; and erection of replacement front porch and front canopy.

A site visit was made on the 21<sup>st</sup> September 2011, when Officers noted that the side extension towards the front of the property had been enlarged, in excess of that approved. The owners of the property were contacted by Officers and advised that the increased development required planning permission. Officers invited an application to regularise the unauthorised development given the minimal impact which resulted.

Officers were further contacted on 30<sup>th</sup> September 2011 when it was alleged that a large balcony area had been created towards the rear of the property. A second site visit was undertaken and it then became apparent that the flat roof over the single storey rear extension had been enclosed with a steel and glass balcony rail; and that the 'Juliet' balconies, as indicated on the approved plans, had not been installed, thus allowing direct access from the rear facing bedrooms onto the flat roof area. These works would appear to have been carried out directly in contravention of condition No.4 attached to application reference W10/0543 which states that '*No part of the flat roofs hereby permitted shall be used as a roof terrace or balcony. No person shall be permitted to access the flat roofs hereby permitted except for maintenance purposes*'.

The owners of the property were contacted by Officers, and concerns regarding the acceptability of the unauthorised balcony area were expressed. Officers requested that the steel and glass balcony rails were removed, the 'Juliet' balconies installed as indicated on the approved plans; and that further applications to discharge the remaining outstanding conditions (large scale fenestration details and details of on-site renewable energy production) were submitted.

In the most recent correspondence received 23<sup>rd</sup> May 2012 the owners have submitted details to discharge the outstanding conditions, but confirm they do

not intend to remove the unauthorised steel and glass balcony rails or install the 'Juliet' balconies.

### **RELEVANT POLICIES**

DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)

DP2 - Amenity (Warwick District Local Plan 1996 - 2011)

### **PLANNING HISTORY**

W97/1559 Erection of rear extension to provide conservatory with 1<sup>st</sup> floor study. Granted February 1998.

W03/1299 Erection of a ground floor and first floor extension. Withdrawn.

W03/1668 Proposed ground and first floor extension. Granted December 2003.

W10/0543 Erection of single and two storey rear extension; removal of front dormer window and erection of roof extension; and erection of replacement front porch and front canopy. Granted 14<sup>th</sup> June 2010.

W12/0025 Erection of single and two storey rear extension; removal of front dormer window and erection; and erection of replacement front porch and front canopy incorporating single storey side extension (retrospective application – amendment to planning permission no. W10/0543). Granted 5<sup>th</sup> April 2012.

### **KEY ISSUES**

The property is a detached two storey detached dwelling, located on the south eastern side of Northumberland Road, in Leamington Spa. The property is constructed of red brick, the first floor being pebble-dashed and painted cream, with traditional red/brown roof tiles to pitched roof. The dwelling benefits from a good size enclosed front garden, which is predominantly surfaced for parking, also having a long rear garden backing onto properties fronting Woodcote Road.

The development approved by application W10/0543 and amended by application W12/0025 which is now substantially complete, consists of a full width ground and part first floor rear extension. The ground floor extension projects into the rear garden, providing a flat roof area beyond the first floor extension. The omission of the 'Juliet' balconies and the provision of the steel and glass balcony rails have provided a large and easily accessed elevated balcony area.

### **Assessment**

Policy DP1 indicates that development will only be permitted which positively contributes to the character and quality of its environment through good layout and design.

Policy DP2 indicates 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.

The Residential Design Guide prepared in accordance with DP1 and adopted in April 2008, indicates with regard to balconies that flat roofed extensions with balconies and/or roof gardens are not acceptable where there is potential for overlooking.

The balcony area, as constructed, measures approximately 2.2m deep, 10m wide (the full width of the dwelling) and is elevated approximately 3m above ground level. The balcony is set back from the party boundary with No.92 Northumberland Road by approximately 1.2m; and with No.96 by approximately 2.5m. Given the elevated position of the balcony, the limited set back from party boundaries and the lack of any side screening structure, the balcony provides direct elevated views over existing boundary treatment into the private rear amenity areas of the adjacent dwellings compromising privacy to the detriment of the living conditions of the occupiers of those properties, and contrary to Policies DP1 and DP2 of the adopted development plan; and the advice contained within the Residential Design Guide. Given the staggered building line these views are afforded directly towards the external areas immediately to the rear of the adjacent dwellings (in particular No.92) where most external activity would be likely to take place. Although at an oblique angle views are also afforded directly into the rear facing windows of No.92 introducing further overlooking and associated loss of privacy.

The owners of the property have recently indicated that they do not intend to remove the unauthorised steel and glass balcony rails or install the 'Juliet' balconies as there are examples of similar balconies on other properties in Northumberland Road. No details of the alleged similar balconies are provided and therefore Officers are unable to investigate further to ascertain if these balconies benefit from planning permission, are unauthorised, or formed part of the original design of the dwelling house.

The owners have further stated that no part of the flat roof structure will be used as a terrace or balcony in accordance with condition No.4 of W10/0543, however the omission of the originally proposed 'Juliet' balconies allows direct access from the two rear facing bedrooms, via large glazed fully opening patio doors, onto this elevated area; and the provision of the steel and glazed balcony safety rails increases the attractiveness of this newly formed area for general everyday use.

### **Justification for Enforcement Action**

In view of the significant adverse impact on the living conditions of the occupiers of the adjacent properties by reason of the introduction of increased potential for overlooking and associated loss of privacy; and the failure of negotiations with the owners of the property, the service of an Enforcement Notice is now considered appropriate to secure the removal of the unauthorised development.

## **RECOMMENDATION**

That enforcement action be authorised to cease the use of this elevated area by securing the removal of the unauthorised steel and glass balcony rails. The period of compliance to be two months.

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