



Appeal Decision

Site visit made on 16 December 2008

by **F M Cherington** DipURP MRTPI MRICS
MBEng

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
7 January 2009

Appeal Ref: APP/E3715/C/08/2082430

The Warwickshire Nursing Home, Main Street, Thurlaston, Rugby, CV23 9JS

- The appeal is made under Section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Oliver Donagher against an enforcement notice issued by Rugby Borough Council.
- The Council's reference is R05/1000/06192/PACA.
- The notice was issued on 27 June 2008.
- The breach of planning control as alleged in the notice is the erection of an external staircase.
- The requirements of the notice are i) to remove the external staircase, ii) to remove all fixtures and fittings to the external staircase and iii) to remove all materials arising from compliance with requirements i) and ii).
- The period for compliance with the requirements is 28 days.
- The appeal is proceeding on the grounds set out in Section 174(2) (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under Section 177(5) of the Act as amended does not fall to be considered.

Decision: I dismiss this appeal and uphold the enforcement notice.

Procedural Matters

1. The Appeal property is the former Manor House now converted to a nursing home with substantial extensions. It lies within the historic core of the village designated as the Thurlaston Conservation Area. A retrospective planning application was submitted for this external staircase but refused by the Council in November 2005 and a subsequent appeal was dismissed in July 2006. The reasons for issuing the notice are similar to those given for refusing planning permission. The staircase the subject of the notice has been constructed in metal and comprises three flights at the southern end of the main building.

The Appeal on Ground (f)

2. The issue to be determined here is whether or not the steps required to comply with the requirements of the notice are excessive and whether lesser steps would overcome the objections. The reasons for issuing the notice are that the Council considers that this staircase, by reason of its siting, design, scale and appearance, is detrimental to the character of the locality, the Thurlaston Conservation Area and the visual amenities of the area. It also considers the staircase to constitute an un-neighbourly form of development that results in overlooking and loss of privacy for the occupants of an adjacent dwelling to the detriment of the amenities that those occupants could reasonably expect to enjoy.

3. This external staircase has a commercial/industrial appearance and is prominent in views from within the site, from nearby dwellings and from Main Street from where it is seen above the boundary wall. It is currently painted black and is an intrusive and incongruous feature due to its design, siting and scale. The Thurlaston Conservation Area comprises the historic core of the village and is predominantly residential in character and its attractiveness derives from the variety of older properties which respect that historic character. The external staircase as constructed does not preserve or enhance the character or appearance of the Conservation Area as required by local and national policy guidance but rather is unacceptably harmful to it. I therefore share the view expressed by the Inspector who dismissed the appeal in 2006.
4. The Appellant says that the property operates as a nursing home for the elderly and that the removal of any additional fire escape may have serious consequences for the occupants in an emergency. However, I saw that the property is a two storey building with the residents accommodated on the ground and first floors whereas this external staircase serves attic rooms on the second floor of the main building which are said to operate as a training unit. These rooms comprise a kitchen/dining room and a lounge and these are accessed by an internal staircase from the first floor corridor. The Appellant also says that this staircase is essential for health and safety but no supporting information is submitted in this regard.
5. He also says that drawings submitted to the Council to improve its appearance should be accepted to retain the fire escape but no such drawings have been submitted with this appeal and it is not possible to grant planning permission on a Ground (f) appeal. The Council says that those drawings were submitted for pre-application discussion but rejected as unacceptable and that the notice was issued because of a lack of progress to resolve this matter.
6. The Council also says that this staircase is the sole means of access to this attic accommodation but that is clearly not the case. Its construction is such that it is unlikely to be used other than for emergency purposes and I am not persuaded that such use is likely to result in overlooking or loss of privacy for the occupants of an adjacent dwelling to such a degree as to warrant removal of the staircase for that reason alone. Nevertheless, I consider the visual impact of this external staircase to be so unacceptably harmful that the requirement to remove it in its entirety is not excessive. No other lesser steps are submitted and I therefore conclude that this appeal must fail.

F M Cherington

INSPECTOR