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## Appeal Decisions

Site visit made on 12 February 2019

**by Elizabeth Jones BSc (Hons) MTCP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 February 2019**

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### **Appeal A Ref: APP/J3720/C/18/3206282**

#### **9 Beauchamp Road, Alcester B49 6BD**

- 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 Garry Lewis against an enforcement notice issued by Stratford on Avon District Council.
- The enforcement notice was issued on 12 June 2018.
- The breach of planning control as alleged in the notice is without planning permission the erection of an external spiral staircase and the installation of a pair of glazed doors (in the approximate position marked X on the Plan).
- The requirements of the notice are:
  - a) Remove the external spiral staircase
  - b) Remove the glazed doors
  - c) Reinstate the opening on the north facing elevation of the property in external facing materials to match the host building
- The period for compliance with the requirements is 4 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

**Summary Decision: The appeal is dismissed and the enforcement notice is upheld.**

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### **Appeal B Ref: APP/J3720/W/18/3206276**

#### **9 Beauchamp Road, Alcester B49 6BD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Garry Lewis against the decision of Stratford on Avon District Council.
- The application Ref 18/00029/FUL, dated 3 November 2017, was refused by notice dated 27 February 2018.
- The development proposed is installation of a patio door and staircase to act as a fire escape.

**Summary Decision: The appeal is dismissed.**

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### **Procedural Matter**

1. The Council's description of development as contained in its decision notice more accurately reflects the s78 appeal proposal. I have therefore used this description in my decision.

### **Appeal A on ground (a) and Appeal B (s78 appeal)**

#### **Main Issue**

2. The effect of the development on the living conditions of the occupants of Numbers 1 and 3 Meadow Road having regard to privacy.

## Reasons

### *Living conditions*

3. The appeal site is a first floor flat which is one of two maisonette flats within a two storey building. The development comprises a pair of glazed doors in the north elevation with an external spiral staircase leading down the side of the building into the garden area below. Beyond the garden area to the north lie the rear gardens of 1 and 3 Meadow Road.
4. I accept that there already exists a degree of mutual overlooking of neighbouring properties and their gardens in the immediate area. Due to its height and proximity to the neighbouring boundary the development provides a direct line of sight into the rear conservatory and rear garden of 1 Meadow Road and to a lesser extent the rear garden of No 3. Consequently, the development causes a significant loss of privacy which is materially harmful to the living conditions of the occupiers of both these properties.
5. Notwithstanding the appellant's intention to only use the doors infrequently, there is no mechanism available to the Council to effectively control their use or the use of the staircase. Obscure glazing of the doors would not be sufficient to overcome the identified harm because when open the doors would still result in overlooking of the neighbours' properties. Moreover, these doors provide access onto the external staircase which affords uninterrupted views of the rear of Nos 1 and 3.
6. A lot of information has been provided by the appellant regarding events and communication which have occurred with the Housing Association over a number of years. I have taken account of the comments concerning the condition and ongoing upkeep of the property including the issue of damp. I also note the concerns regarding fire risk, the existing stairwell and the standard to which the installation of the doors and staircase have been carried out. However, for the reasons given above, these matters do not justify a development which gives rise to overlooking and a loss of privacy for the neighbours as identified.
7. I conclude that the development gives rise to an unacceptable degree of overlooking which has an adverse effect on the living conditions of the occupiers of Nos 1 and 3 having regard to privacy. The development therefore does not accord with Policies CS.9 and CS.20 of the Stratford-on-Avon District Core Strategy 2011-2031 which seek to ensure a good standard of space and amenity for occupiers where occupants of new and neighbouring buildings will be protected from unacceptable levels of noise, contamination and pollution, loss of daylight and privacy, and adverse surroundings.
8. The Council has referred to the document 'Extending Your Home: A planning guide for householders Planning Advice Note' (2008) and states that this document has not been formally adopted by the Council as a Supplementary Planning Document. Accordingly, I have attributed this document little weight. The Council also refers to its new draft Development Requirements Supplementary Planning Document and acknowledges that only limited weight can be given to the document because it has not been formally adopted by the Council.

### **Other matters**

9. Dissatisfaction with the Housing Association should appropriately be made in the first instance through the Housing Association's own complaints procedure.

### **Conclusion**

10. For the above reasons, and with regard to all other matters raised, I conclude that Appeal A on ground (a) and Appeal B should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

### **Formal Decisions**

11. **Appeal A** – It is directed that the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.
12. **Appeal B** - The appeal is dismissed.

*Elizabeth Jones*

INSPECTOR