



# Appeal Decision

Hearing held and site visit made on  
1 May 2008

by **Malcolm Rowe**

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

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Decision date:  
24 June 2008

**Appeal Ref: APP/L5810/A/07/2056784**

**Central Courtyard Area, St Leonard's Court, St Leonard's Road, East Sheen, SW14 7NG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice, within the prescribed period, of a decision on an application for planning permission.
- The appeal is made by Dorrington Investment Plc against Richmond upon Thames London Borough Council.
- The application, Ref 06/1925/FUL, is dated 12 June 2006.
- The development proposed is conversion of an existing underground air raid shelter into two self-contained apartments.

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. As the Hearing, the main parties agreed that a better description of the proposal would be '*conversion of the existing underground air raid shelter into two self-contained, 1-bedroom dwellings*'. I agree and have therefore determined the appeal on that basis.
3. The Council confirmed that, had it still been open to them formally to determine the application, it would have refused planning permission, as resolved by its Development Control committee on 15 November 2007, for the following reasons:

*The proposed development by reason of its height, design and bulk would be visually intrusive and thereby detrimental to the visual amenity of the area and the setting of St Leonard's Court, and to the outlook of local residents. The proposal would thereby be contrary to policies BLT 11, BLT 16, HSG 11 & HSG 12 of the Richmond upon Thames Unitary Development Plan First Review 2005.*

## Background and Detailed Proposal

4. The air raid shelter is beneath the central, raised garden area of St Leonard's Court, a 1930s development of mansion flats. Access to the shelter is via a narrow, steep concrete staircase from a conical tower on the western side of the central garden. Below ground, the shelter comprises four main rooms in two parallel chambers each bisected by a central corridor. The floor level of both chambers is the same. The roof of the western chamber is about 1.25m

below the surface of the raised garden but the eastern chamber with its higher ceiling has a roof level at a depth of about 0.75m.

5. Two alternative schemes for conversion of the air raid shelter were applied for in 2000 but refused by the Council. The present proposal is designed to keep the two 1-bedroom dwellings within the footprint of the existing shelter and the ground over the deeper western chamber undisturbed. The ground above the eastern chamber would be excavated and the roof removed. The central part of the exposed area would be covered with a grassed sloping roof over the communal entrance hall and living rooms. Areas on either side would be left open to accommodate two sunken patios and clerestory windows would be provided along the western edge of the raised sloping roof.
6. With the existing staircase filled in, the rear of the conical tower would be opened up to provide a walk-through porch, leading via a new pergola to a new enclosed staircase between the living rooms. Taken from the level of the existing raised lawn area, the new grassed roof areas would slope up to a height of 1.4m. The new staircase enclosure in between would slope on the same profile to a height of 2m and the pergola would rise to a height of 1.8m. Additional headroom would be provided by building the path through the entrance porch and pergola at a lower level.

### **Main issues**

7. The main issues are the effect of the proposed development on:-
  - i) the character and appearance of the area;
  - ii) the living conditions of existing residents of St Leonard's Court and Palmers Road, with particular reference to visual impact, amenity space, outlook and privacy; and
  - iii) the living conditions of future residents of the proposed dwellings, with particular reference to daylight and sunlight, amenity space and privacy.

### **Reasons**

8. On the first issue, St Leonards Court was designed as an entity, with interlocking blocks containing a central garden area. The raised garden is well maintained with a central rose bed, low boundary hedging and a light screen of trees. Together with the ornamental gated accesses to St Leonards Court, the garden provides a pleasant open setting both to the flats and the terrace of bay-fronted Victorian houses on the eastern side of Palmers Road. The overall impression is of a traditional, well-ordered residential enclave which contributes to the townscape and is clearly designed to be appreciated as a whole.
9. It is common ground between the parties that the air raid shelter is an integral feature of the original development. It is an unobtrusive feature, evidenced above ground only by the conical entry tower which provides a modest focal point to the formal garden. The new dwellings would also be contained largely underground. However, they would demand new and more imposing structures with the sloping roof, pergola and staircase enclosure rising at their highest to 2m above the level of the raised garden. I consider that the new structures would be poorly juxtaposed to the simple tower and that their irregular form would jar in this formal setting.

10. I further consider that, because of its bulk and apparently random projection above raised ground, the superstructure of the new dwellings would appear obtrusive and as an ungainly afterthought which would disrupt the generally uncluttered sweep of the raised garden. The additional, above-ground structures for the new dwellings would also diminish the proportion of built to open space so spoiling the balance and visual integrity of the St Leonards Court development as a whole.
11. Planning Policy Statement 3: *Housing* (PPS3), reflecting Planning Policy Statement 1: *Delivering Sustainable Development* (PPS1), encourages the efficient use of previously developed land, particularly the provision of additional housing in sustainable locations, provided this is not at the expense of the quality of the environment. This consideration is reflected in development plan policies. In particular, Policy BLT11 of the Council's Unitary Development Plan: First Review 2005 (UDP) emphasises the need for a high standard of design in new buildings, not by stifling innovative design but by ensuring that schemes are compatible with the scale and character of existing development, its setting and the setting of the new development. UDP Policy HSG11 recognizes the need to use land as intensively as is compatible with the protection of the quality, character and amenity of the area.
12. I conclude for the reasons given that the proposed development would spoil the setting and local distinctiveness of St Leonard's Court so harming the character and appearance of the area. The proposal therefore conflicts with PPS1 and PPS3 and the development plan policies mentioned.
13. Turning to the issues affecting living conditions, I deal first with the visual impact of the proposed development on the outlook of existing residents. It is clear from the many, strong views expressed at the Hearing that the unspoilt open aspect of the formal garden is much appreciated by the residents of both Palmers Road and St Leonards Court, where 69 of the flats look out either directly or obliquely onto the central area. During my accompanied visit, I viewed the central garden from the upper floor flat at No 5 Palmers Road and from No. 54 at second floor level at the northern end of St Leonard's Court. In my opinion, the visible structures of the new dwellings would unacceptably obtrude into the views across the garden so spoiling local residents' amenity of outlook.
14. I have taken into account the efforts made in the present proposal to minimise the impact of the new dwellings. In my opinion, however, rather than harmonising with the setting, the new screen hedges would arbitrarily truncate views across the garden and exacerbate the awkwardness of the new associated structures. The grassed sloping roof over the communal entrance and living areas would have some of the characteristics of a military bunker. The introduction of such an incongruous, above-ground structure would be starkly at odds with the original layout and design of St Leonard's Court with its largely hidden, communal, air raid shelter.
15. Local residents also appreciate the central garden area as a 'peaceful oasis'. This impression would be materially and in my opinion adversely altered by the proposed development. Residential paraphernalia would create an incongruous intrusion into the communal garden area. After dark, the change from a passive to an active use would be emphasised by light spillage from the new

- dwellings, particularly the clerestory windows which would be directly visible at a range of only 15m from the flats to the east. Existing residents are, of course, already exposed to other dwellings but in an ordered manner, reflecting the original layout of the 1930s development.
16. I conclude for the reasons given that the proposal represents a discordant and intrusive form of development which would harm the living conditions of the existing residents of St Leonard's Court and Palmers Road. The proposed development therefore conflicts with UDP Policy BLT16 which, among other things, aims to protect existing occupiers from development that is both obtrusive and visually intrusive.
  17. As regards privacy, there would be no direct overlooking of the surrounding flats and houses from the clerestory windows or the sunken living areas of the new dwellings. I am therefore not persuaded that the proposed development would have an adverse impact on the privacy of the existing residents of St Leonard's Court or Palmers Road. However, as regards future residents of the proposed dwellings, although their internal living areas would be generally well screened, the occupants would be conspicuously overlooked from all sides when using the raised garden area. When using the sunken patios, the occupants would also find little or no relief from overlooking from the upper floor flats to the north. The new dwellings in their comparatively isolated position would in any event command attention as the new focal point to the central garden. I consider that the combination of these factors would make intrusive overlooking very likely.
  18. I therefore conclude that, while the proposal would not adversely affect the privacy of existing residents, by allowing intrusive overlooking it would result in an unacceptable lack of privacy for the occupants of the new dwellings. The proposal therefore conflicts with UDT Policy HSG 12 and the further aim of UDT Policy BLT 16 to protect residential properties from development that is un-neighbourly in this respect.
  19. As regards amenity space, a significant amount of the central garden area would be lost to communal use, either directly as part of the curtilage of the new dwellings or indirectly by association with them. It nonetheless seems to me that the poor access to the raised garden discourages its regular use as a recreational area by the residents of St Leonard's Court. The remaining garden area would still be available as a communal facility and I am therefore not persuaded that the proposed development would result in a material loss of amenity space for existing residents. The residents of the new dwellings would also have access to the communal garden, in addition to the dedicated sunken patios. I find on that basis that the provided and accessible outdoor amenity space for the occupants would be adequate.
  20. On the question of daylight and sunlight, the design of the new development would provide natural daylight for the living rooms by means of fully glazed elevations onto the patios and high level clerestory windows. The bedrooms would have fully glazed doors and windows onto the patios, and supplementary roof lights. I judge that while the occupants of the new dwellings would benefit from well-planned borrowed light, they would not be unduly dependent on artificial light. At the time of my visit, virtually the whole of the raised central garden area was in good sunlight. The shadowing effect of the flats to the west

would undoubtedly limit the available hours of sunlight to the new dwellings, particularly during the winter months. However, in my opinion this would not be unusual or visually overbearing in this urban residential setting.

21. Drawing these further considerations together, I conclude that the proposed development would not harm the living conditions of existing or future residents in terms of accessible amenity space or by unacceptably restricting daylight and sunlight to the proposed dwellings. In those respects the proposal complies with the further aims of UDP Policy BLT16 and the complementary aims of UDP Policies HSG12 and BLT15.
22. I have taken account of all other matters raised, including the efforts made in this scheme to overcome the Council's objections to previous proposals for conversion of the air raid shelter. However, there is nothing of sufficient weight to alter my decision, for the reasons given above, that the appeal must fail.

*Malcolm Rowe*

Inspector

## **APPEARANCES**

### **FOR THE APPELLANTS**

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Alan Pates                        Lipinski Pates, 68a Kelmscott Road, SW11 6PT

### **FOR THE LOCAL PLANNING AUTHORITY**

Sukie Tamplin                  Appeals officer with the Council

### **INTERESTED PERSONS**

Rebecca Mortimore          62 St Leonard's Court SW14 7LS  
Chris Phillips                1 Palmers Road, East Sheen SW14 7NB  
Philip Burrows                5 Palmers Road, East Sheen SW14 7NB  
Virginia Morris                (Councillor – East Sheen)  
   5 Longfield Drive, East Sheen SW14 7AG  
Ann Lavarack                 63 St Leonard's Court, St Leonard's Road, SW14 7LS  
Victoria Lloyd                54 St Leonard's Court SW14 7LS  
Geoff Higgs                    11 Palmers Road SW14 7NB  
Angela Kidner                Environment Trust for Richmond  
   55 Heath Road, Twickenham TW1 4AW  
Nicky Gill                      Mortlake with East Sheen Society  
   30 Sheen Common Drive, Richmond TW10 5BN  
Murray Hedgcock            14 Clifford Avenue SW14 7BS  
Anne Reeves                  80 St Leonard's Court SW14 7LS

### **DOCUMENTS PRODUCED**

Doc 1 - GO Direction regarding 'saved' UDP policies  
Doc 2 - Provisional list of Speakers on Heritage and Planning issues  
Doc 3 - Council Legal Department's comments on draft S106 (not pursued)  
Doc 4 – Petition against proposal  
Doc 5 - Suggested 'additional' Conditions (as put to Planning Committee)