



Appeal Decision

Site Visit made on 31 March 2021

by Mr Samuel Watson BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th May 2021

Appeal Ref: APP/R3705/W/20/3262611

28/30 Farriers Cottage, Austrey Road, Warton, Tamworth B79 0HW

- 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 Arjun Sagu against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2019/0273, dated 10 June 2020, was refused by notice dated 2 October 2020.
 - The development proposed is converting the existing outbuilding into a residential dwelling, which will comprise of 3 bedrooms, 3 bathrooms and living space.
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Decision

1. The appeal is allowed and planning permission is granted for converting the existing outbuilding into a residential dwelling, which will comprise of 3 bedrooms, 3 bathrooms and living space at 28/30 Austrey Road, Warton, Tamworth B79 0HW in accordance with the terms of the application, Ref PAP/2019/0273, dated 10 June 2020, subject to the conditions listed in the schedule below.

Preliminary Matter

2. The appellant has included revised drawings as part of this appeal which show the removal of the boundary wall along the side of Taft's Yard. I have considered the revised drawings under the principles established by the Courts in *Wheatcroft*¹. The Council has not commented on the revised drawings and to consider them would deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore determined the appeal on the basis of the drawings considered by the Council.

Main Issue

3. The main issue in this case is the effect of the proposal on the highway safety of pedestrians and motorists with particular regard to intervisibility.

Reasons

4. The appeal site is set within the rear garden of No 28/30 Austrey Road and contains a sizeable outbuilding which is currently in a state of some disrepair. The site is accessed via a driveway which serves Nos 28/30 and 32 Austrey Road. The junction with the road is relatively narrow and views towards the left when leaving the driveway are substantially blocked by the dwelling at No 28/30. Therefore, the existing intervisibility towards the left, for both pedestrians and motorists is poor. Although visibility at the junction with

¹ Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

Austrey Road is restricted, this situation currently exists, and the evidence before me demonstrates that the existing use of the access has not resulted in any recorded harm to pedestrian or vehicle safety.

5. In my judgement, the proposal would likely lead to a small increase in the number of vehicles using the shared access. However, as it is only an increase of one dwelling, against the two which already use the access, I find the additional vehicular movements to not be a significant increase over the existing. Therefore, while I am mindful of the Highway Authority's concerns regarding the visibility splay submitted by the appellant, I find that there would be no significant or unacceptable increase in harm to pedestrian or vehicle safety.
6. Although the vehicular access does not meet the Council's width requirements and would be shared by three dwellings, the probability of vehicles entering and exiting the site at the same time would be likely to be small. Moreover, during my site visit I noted vehicles parked sporadically on both sides of the road. This resulted in traffic needing to manoeuvre around the parked vehicles or wait for oncoming traffic to pass. Although I am mindful that Austrey Road is the main road through the village, and that traffic speeds in excess of the speed limit have been recorded, given the above road conditions, I find the slight increased possibility of a vehicle needing to wait in the road for the driveway to clear would not result in unacceptable harm to highway safety.
7. From the information before me it appears that the proposed parking areas associated with the existing and new dwellings would be insufficient for larger vehicles, such as delivery vans, to safely manoeuvre on site. However, these conditions are existing, and I find it is more likely that commercial vehicles would park on the road to access the existing properties and that there would only be a small increase in this as a result of the new dwelling. The on-street parking would only be for short periods during deliveries and would be no more harmful than the existing on-street parking of private or commercial vehicles associated with existing nearby properties.
8. Given the closeness of the three private accesses on to the shared driveway and its short length, this would necessitate vehicles speeds on and around the site being very slow. Although visibility within the site would be restricted and no lighting or safe spaces for pedestrians have been proposed, given the slow vehicle speeds, it is unlikely that the safety of those using the shared driveway and private parking areas would be harmed as a result.
9. Although the proposed parking areas would also not have any lighting or safe spaces for pedestrians, given the closeness of the three private accesses on to the shared driveway and its overall short length, vehicle speeds on and around the site would need to be very slow. Given the tall walls either side of the proposed access to the private parking I therefore find it unlikely that the safety of others would be harmed as a result.
10. Although bins put out for collection could cause issues with highway safety if they are put across the access or in such a way as to block visibility, this is an already existing issue and it is not been demonstrated that any harm has arisen as a result. Additional bins may make conflict more likely, but the access is wide enough to safely accommodate bins put out for collection and would not result in unacceptable harm to highway safety.

11. From my observations on site it appears that the blue line surrounding the shared driveway includes land outside of the appellant's ownership and connected to No 36 Austrey Road. However, the land in question is relatively narrow and would not, if used as part of the driveway, allow it to accommodate two vehicles to pass. Therefore, although the land may not be within the appellant's ownership it is not necessary in order to make the proposal acceptable with regard to highway safety.
12. Therefore, there would be no unacceptable increase in harm to highway safety for pedestrians or motorists by way the new dwelling which would make use of the existing shared vehicular access. As such the proposal complies with Policy ENV14 of the North Warwickshire Local Plan, Policies NW10 and NW12 of the North Warwickshire Local Plan: Core Strategy, and Policies LUT10 and W9 of the Warwickshire Local Transport Plan. Collectively these policies, *inter alia*, require any vehicular access to not compromise the safety of those using the access or highway. The proposal would also comply with Paragraphs 108-110 of the National Planning Policy Framework (the Framework) which require development to provide a safe and suitable access and no result in unacceptable impacts on highway safety.

Other Matters

13. The appeal building is a non-designated heritage asset and I agree with the Council that this status would not be compromised by the proposal as it would, were planning permission to be granted and subject to a condition requiring a suitable reveal on all windows and doors, renovate the building in a way that would be sympathetic. From the evidence given, the age of the building, and its location within the historic core of the settlement, there is a likelihood that archaeology could be present at the appeal site. In my judgement however, this matter could be satisfactorily dealt with by means of a condition along the lines of that suggested by the Council, were planning permission to be granted.
14. Given the position of the proposed dwelling and its relationship to neighbouring properties I find that there would be no unacceptable increase in overlooking as a result of the development, and that it would therefore protect the privacy of neighbouring occupiers.
15. While I note the concerns raised regarding possible damage to neighbouring properties arising from the development, no substantive evidence has been submitted to demonstrate that such harm would occur. I therefore find that the neighbouring properties are at no greater risk of damage as a result of this development. I note the Highway Authority's concerns regarding the carriageway being narrowed as a result of the development. However, from the information before me it appears that this is an inaccuracy on the plan, rather than an intention to enlarge the pavement outside the appeal site. Moreover, this decision does not give permission for development on land outside of the appellant's ownership.
16. Moreover, while the Highway's Authority have brought two appeals² to my attention I find that neither are so similar to the development before me as to materially affect my determination of this appeal. In particular the location and existing circumstances of the two appeals are significantly different to the one

² References: APP/R3705/W/19/3229569 and APP/R3705/W/19/3233095

before me, and moreover the scale of development related to appeal ref APP/R3705/W/19/3229569 is significance greater to that before me.

17. I find that whilst there may be some wildflowers growing along Taft's Yard these are not of such significant importance to the character and appearance of the area to make their loss unacceptable.
18. Although I note the concerns raised regarding the loss of property values as a result of the development, this is not a planning matter and so does not carry any weight in my determination of the appeal before me. Moreover, given the specific circumstances of this site, and that all proposals must be considered on their own merit, the scheme would not set a precedent for future development.

Conditions

19. I have assessed the conditions suggested by the parties against the policy tests set out in the Framework and the advice in the Planning Practice Guidance. In the interests of clarity, I have, where necessary, made some changes to the wording.
20. In addition to the standard commencement condition, a condition is necessary requiring that the development is carried out in accordance with the approved plans to provide certainty. In the interests of safeguarding the character and appearance of the area, conditions are also necessary requiring that details of any external materials, boundary treatments and surfacing are approved by the Council prior to their use.
21. Given the historic interest of the building as a non-designated heritage asset a condition requiring windows and doors to be installed with a deep reveal is required to protect its historic character and appearance. In addition, given the potential archaeological interest of the appeal site as set out above, a condition is necessary in order to ensure that any archaeological findings are recorded and protected. As both demolition and development work on the site could lead to the disturbance or destruction of objects or features of archaeological importance, it is necessary that this condition is carried out prior to the commencement of any works on site.
22. In order to ensure that suitable car parking and bin storage areas are provided, it is necessary to attach conditions requiring further details to be submitted to the Council showing the proposed car parking area, and requiring that both the car parking and bin storage areas are provided. Moreover, in the interests of sustainability an electric vehicle charging point should be provided.
23. However, in my judgement the following conditions are not necessary for the reasons given. Firstly, the bat survey submitted by the appellant found no evidence of bats using the site. As the survey is recent, undertaking further studies would be unnecessary. However, as it did find that there is potential for bats to use the site, I have attached a condition requiring the recommendations of the report to be followed.
24. Given that the vehicular access is already in use, and there would be only a limited increase in movements across it, conditions requiring its resurfacing, restricting the placement of tall plants, structures, or a gate close to the highway would be unnecessary.

25. I note the Council's concerns regarding potential contaminants on the site and I find that it is possible that some very limited contamination may be present given the age of the building and its possible previous uses. However, I find that contamination from the building is not assured given its small scale, and that any contamination would likely be very limited. As such, in my judgement the Council's suggested pre-commencement condition would be excessive and unnecessary.
26. A condition requiring the building is not demolished is unnecessary given that the description of the works clearly sets out the development being for the conversion of the building, not its demolition, and, the plans show the retention of the existing building. Given the small scale of the development any noise, disruption or other impacts from the construction works would be limited and short lived. As such a condition requiring a construction management plan would be unreasonable.

Conclusion

27. For the reasons given above I conclude that the appeal should be allowed.

Mr Samuel Watson

INSPECTOR

Schedule

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1021-01, Proposed Site Plan (rev C) and Proposed Plan (Rev F)
- 3) No demolition/development shall take place until a Written Scheme of Investigation has first been submitted to, and approved in writing by, the local planning authority. The scheme shall include an assessment of significance and research questions, as well as:
 - i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) An Archaeological Mitigation Strategy document informed by the results of the archaeological evaluation.
- 4) No works above ground level shall commence on site until full details of the facing, roofing and surfacing materials to be used, including details of any surfacing and all boundary treatments, have first been submitted to and approved in writing by the Local Planning Authority. The

development shall thereafter be carried out in accordance with the agreed details.

- 5) The dwelling hereby approved shall not be occupied until suitable space for three waste collection bins have provided. The space shall thereafter be maintained for this purpose.
- 6) The dwelling hereby approved shall not be occupied until two car parking places and an electrical vehicle charging point have been provided in accordance with the approved details which have first been submitted to, and approved in writing by, the local planning authority.
- 7) No works shall take place other than where they are in accordance with the recommended Methods of Working set out in the Preliminary Bat Roost Assessment and Bird Survey.
- 8) The window and external door reveals hereby approved shall be recessed by a minimum of 75mm from the external face of the wall.