

# Appeal Decision

Site Visit made on 18 May 2021

**by M Chalk BSc (Hons) MSc MRTPI**

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

**Decision date: 7 June 2021**

---

**Appeal Ref: APP/B1930/W/21/3269095**

**Warwick House, 21-23 London Road, St Albans, AL1 1PX**

- 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 London Road Investments Ltd against the decision of St Albans City Council.
  - The application Ref 5/20/0835, dated 3 April 2020, was refused by notice dated 17 August 2020.
  - The development proposed is change of use of ground floor (A1 Use Class) unit to 3no. self-contained flats (Class C3) and associated works.
- 

## Decision

1. The appeal is allowed and planning permission is granted for change of use of ground floor (A1 Use Class) unit to 3no. self-contained flats (Class C3) and associated works at Warwick House, 21-23 London Road, St Albans, AL1 1PX in accordance with the terms of the application, Ref 5/2020/0835, dated 3 April 2020 subject to conditions set out in the attached schedule.

## Preliminary Matters

2. I have omitted the reference in the description of development to the Town and Country Planning (Use Classes) Order 1987 as it does not contribute to the description of development. Since the application was determined changes to the Use Classes Order mean that retail no longer falls within Use Class A1. However, I have otherwise left the description of development as given because it is clear what is proposed.
3. During the course of the appeal, the appellants provided amended plans in an attempt to overcome the Council's second reason for refusal relating to the storage of refuse. I have accepted those amended plans for the reasons given later on in my decision.

## Main Issues

4. The main issues are:
  - Whether the loss of the A1 use is justified, including any effect on the significance of the St Albans Conservation Area; and,
  - Whether the development would provide an acceptable standard of accommodation, with regard to the provision of refuse storage facilities.

## Reasons

### *Loss of the A1 use*

5. Policies 52, 56 and 57 of the St Albans District Local Plan Review 1994 (the LP) together designate the appeal site as falling within a Class A frontage wherein

small scale retail development will generally be permitted and the loss of existing shops will not normally be permitted except for their replacement with an appropriate service use or other use appropriate to a shopping area.

6. The proposed change of use to three flats would not fall within any of the uses deemed acceptable within the frontage. The continuing use of the premises for retail or another appropriate service use would contribute to the ongoing vitality of the city centre as the District's principal shopping area, while the change to a non-retail or service use would be harmful to that vitality.
7. The appellants have provided marketing information indicating that there is little interest in the premises for a retail or service use, and the current tenant is unwilling to commit to a long-term lease paying full market value for the property. However, the site is not currently vacant and with the easing of the pandemic restrictions it is likely that retail footfall and spending will increase. The appellants state that the current arrangement with the tenant does not provide a reasonable return on their investment but has not said that the arrangement results in a loss to them. Given these considerations, and notwithstanding the appellants' reasonable expectation to generate a return on the property, I am not convinced that the loss of the retail use is justified.
8. The site is in the St Albans Conservation Area (the CA). London Road leads into the town centre, and its character is a mix of residential and commercial premises in both historic and more modern buildings. I find that this mix of uses and buildings contributes to the overall significance of the CA, which derives in part from the mix of buildings and their uses. In accordance with the statutory duty set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA.
9. Warwick House is a modern building of little architectural or historic significance. The proposed development would result in the loss of a shopfront at ground floor level. This would not be harmful to the appearance of the property or the wider CA, as the development would be carried out in sympathetic materials.
10. The loss of a commercial unit would result in a change to the character of the CA. However, that change would be in an area of mixed residential and commercial properties, and in particular would be immediately next to an extended row of modern residential properties. Within this context, there would be no harm to the character of the CA from the development.
11. The proposed development would preserve the character and appearance of the CA but would not otherwise be justified as it would lead to the loss of a commercial unit within this designated frontage. It would therefore conflict with Policies 52, 56 and 57 of the LP, the requirements of which are set out above.

#### *Refuse storage*

12. The appellants have provided amended plans to address the Council's second reason for refusal. The Council have stated that consultation with their Waste and Recycling Department and Design and Conservation Officer would be required on these, as well as noting concerns raised by residents regarding the waste store.
13. Having regard to the principles set out in *Wheatcroft*, I note from the appellants' submissions that the recycling and waste officer has said that the

proposed refuse store layout is acceptable. While this was not a formal consultation, I am satisfied that the relevant consultee does not object to the proposal, and their interests would not be prejudiced by my accepting the revisions.

14. Furthermore, the alterations set out on drawing 16144-112 Revision E would not result in material differences to the size and siting of the door to the refuse store or the adjacent window to the bedroom compared to the plans on which consultations were carried out. Given that these changes would be made to the rear of a modern building with very limited effect on the character or appearance of the CA I do not consider that the interests of the Design and Conservation Officer would be prejudiced by my accepting these revisions.
15. As the alterations would ensure that the refuse store would be suitable for the proposed development, I do not consider that the interests of neighbouring residents would be prejudiced by my accepting the revisions.
16. The revised layout would provide sufficient storage for the refuse bins required by the development. It would therefore accord with Policies 11 and 70 of the LP, which collectively require that residential conversions create satisfactory living conditions.

#### *Planning Balance*

17. I have found that there would be harm arising from the loss of a retail use from this Class A frontage and its replacement with flats. The proposal conflicts with Policies 52, 56 and 57 of the LP taken as a whole, and these are the most important policies for determination of the appeal.
18. The Council cannot demonstrate a five year supply of housing land and the appellants contend that these most important policies are out of date. The presumption in favour of sustainable development identified in Paragraph 11 of the National Planning Policy Framework (the Framework) is therefore engaged.
19. The most important policies collectively seek to ensure that only retail or other appropriate service uses are sited within Class A frontages. This is more restrictive than the aims of the Framework, which seeks to allow town centres to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries and allows a suitable mix of uses, including housing. The conflict with the policies therefore attracts only limited weight in the determination of this appeal.
20. Set against the harm from the loss of the retail would be the benefit of three new dwellings. This would support the Government's objective of significantly boosting the supply of homes, and directly address a need for smaller housing units in the District. These benefits attract moderate weight, given the limited contribution towards the District's housing shortfall.
21. The harm arising from the loss of retail would be modest given that only a single commercial unit would be lost. That harm would not, therefore, significantly and demonstrably outweigh the benefits that would result from the development, when assessed against the policies of the Framework taken as a whole.

#### *Other Matters*

22. Concerns have been raised by third parties regarding whether the development would provide adequate parking for the three flats. In this case, there would be

parking for two cars at the rear of the building, plus the provision of cycle parking within the adjacent underground parking area. The Council felt that this provision was acceptable, given the site's proximity to the town centre, accessibility to public transport and the presence of a public car park nearby. I see no reason to disagree with this conclusion.

23. Further concerns were raised regarding the adequacy of the existing refuse storage at the site. However, it is not within the scope of this appeal to address any such existing issues, only to ensure that the existing proposal provides adequate refuse storage to meet its own needs, which I am satisfied would be the case. The development does not provide additional environmental features such as a garden, but I am not aware of any requirement to provide such a feature for a development of this scale.
24. The potential impact on property values is not a planning consideration, and therefore does not fall to be considered as part of this appeal. Concerns regarding sewerage infrastructure capacity and disruption resulting from construction are addressed under other legislation.

### **Conditions**

25. I have had regard to the conditions recommended by the Council. Where necessary, I have amended the wording to reflect national Planning Practice Guidance.
26. In the interests of certainty, I have imposed a condition specifying the approved plans specifying the approved plans. Conditions relating to the external materials and finishes are necessary to ensure an appropriate appearance to the finished development. A condition requiring obscured glazing to the bathroom window to Unit A is necessary to secure reasonable privacy to the occupants of that flat.
27. The crime prevention officer has recommended that external lighting be installed to the entrances of the flats, and this is reasonable and necessary for the sake of resident safety. I have therefore imposed a condition requiring this.
28. I have imposed a condition requiring that a noise report be submitted to the Council for approval showing that the living conditions within the flats would be acceptable.
29. I have also imposed a condition requiring that the car and cycle parking at the site be retained for the use of the occupants of the flats to ensure that the development does not cause parking issues away from the site.
30. Separate conditions relating to landscaping at the site are not necessary, as the only landscaping is the hedge planters. Details of the size and siting of these are already shown on the site plan, and the materials will be secured under the relevant condition.

### **Conclusion**

31. For the reasons set out above, the appeal succeeds.

*M Chalk*

INSPECTOR

### **Schedule of conditions**

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: 16144-99 Rev C Location Plan, 16144-100 Rev B Existing Site Plan, 16144-101 Rev A Existing GA Plan, 16144-102 Rev A Existing Elevations, 16144-103 Existing Lower Basement, 16144-110 Rev G Proposed Site Plan, 16144-111 Rev E Proposed GA Plan, 16144-112 Rev E Proposed Elevations and 16144-113 Proposed Lower Basement.
3. No external works shall take place until samples of the materials and finishes to be used in the construction of the external surfaces of the development hereby permitted, including the planters, have been approved in writing by the Local Planning Authority. Sample materials should be made available on site when discharging this condition. Development shall be carried out in accordance with the approved details prior to the first occupation of any of the approved dwellings.
4. Notwithstanding the details on the approved plans, the new ground floor windows shall match the existing upper floor windows in terms of frame thickness and the thickness of transoms, mullions and glazing bars.
5. The ground floor window to be created in the southwest elevation facing towards London Road and serving the en-suite of Unit A shall be glazed in obscure glass, and shall not be altered to clear glass without the prior written approval of the Local Planning Authority.
6. This permission does not extend to the installation of external lighting. A scheme for such works shall be submitted to and approved in writing by the Local Planning Authority, prior to commencement of any external works. The development shall thereafter be carried out in accordance with those approved details prior to the first occupation of any of the approved dwellings.
7. The units hereby approved shall not be occupied until details of noise levels within a selection of the most affected units/flats' living rooms and bedrooms have been submitted to and approved in writing by the Local Planning Authority in the form of an acoustic report demonstrating that "reasonable" resting levels of noise attenuation have been achieved in accordance with standards set out within BS8233: 2014 Guidance on sound insulation and noise reduction for buildings. The selection of the most affected premises shall be made by a competent person.

If "reasonable" noise levels have not been achieved, the report will detail what additional measures will be undertaken to ensure that they are achieved. These additional measures shall be implemented prior to the occupation of the development in accordance with details so approved.
8. The two car parking spaces to the rear of the site and three cycle spaces in the lower basement car park shall be retained as a permanent ancillary to the development and shall be used for no other purpose at any time.