



Appeal Decisions

Site visit made on 22 May 2023

by Mr JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 June 2023

Appeal A: APP/T3725/W/22/3306329

64-66 Market Place, Warwick CV34 4SD

- 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 Cobalt Developments against the decision of Warwick District Council.
 - The application Ref W/21/0374, dated 26 February 2021, was refused by notice dated 11 May 2022.
 - The development proposed is the conversion of offices into 2 one-bedroom apartments, new staircase extension to the rear yard and associated works.
-

Appeal B: APP/T3725/Y/22/3306330

64-66 Market Place, Warwick CV34 4SD

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Cobalt Developments against the decision of Warwick District Council.
 - The application Ref W/21/0375/LB, dated 26 February 2021, was refused by notice dated 10 May 2022.
 - The works proposed are the conversion of offices into 2 one-bedroom apartments, new staircase extension to the rear yard and associated works.
-

Decisions

Appeal A: APP/T3725/W/22/3306329

1. The appeal is dismissed

Appeal B: APP/T3725/Y/22/3306330

2. The appeal is allowed and listed building consent is granted for the conversion of offices into 2 one-bedroom apartments, new staircase extension to the rear yard and associated works at 64-66 Market Place, Warwick CV34 4SD in accordance with the terms of application Ref W/21/0375/LB dated 26 February 2021 subject to the following conditions:
 - 1) The works hereby granted shall begin not later than 3 years from the date of this decision.
 - 2) Unless otherwise amended under the conditions below, the works hereby granted shall be carried out in accordance with the details shown on the site location plan and approved drawings: 'existing & proposed yard & ground floor plans', 'proposed ground floor plan', 'existing & proposed first & second floor plans', 'north-east elevations', 'north-west elevations', 'south-west & south-east elevations' and 'roof details' dated August 2022.
 - 3) No works shall be carried out above slab level unless and until samples of the external facing materials to be used have been submitted to and

approved in writing by the Local Planning Authority. The works shall only be carried out in accordance with the approved details.

- 4) No windows shall be installed unless and until details have been submitted to and approved in writing by the Local Planning Authority of their construction. These details shall indicate the use of timber, putty, glazing bars not exceeding 17mm in width, and a slim profile glazing system no more than 12mm in width with dark coloured spacers. The windows shall then be installed in accordance with the approved details.

Preliminary Matters

3. During the course of the appeals amended plans dated August 2022 (the amended plans) were submitted revising the internal layout of the proposed apartments. As I consider no party would be prejudiced, I have taken them into account in my determination.
4. An application for costs was submitted by Mr Swan against the Council, and that is the subject of a separate decision.

Main Issues

5. A main issue common to both appeals is whether the works would preserve the special architectural and historic interest of this Grade II listed building, whether they would fail to preserve the character or appearance of the Conservation Area, and whether they would harm the significance of either of these designated heritage assets.
6. In relation to Appeal A only, further main issues are
 - a) whether the scheme would create suitable living conditions for future residents,
 - b) whether the means of refuse storage is acceptable, and
 - c) its effect on highway safety and the living conditions of nearby residents.

Reasons

Effect on the heritage assets

7. The *National Planning Policy Framework* (the Framework) states that great weight should be given to the conservation of heritage assets, as they are an irreplaceable resource.
8. 64-66 Market Place is a Grade II listed building that was constructed in a number of phases. The front portion dates from the late 18th or early 19th Century, but the 3-storey rearmost element (the rearmost element) accessed through a central courtyard, was probably added towards the end of the 19th Century. As a result, the property has the appearance of having grown in a rather incremental manner. Over time it has no doubt had a number of uses, but the rear elements seem to have been associated with workshops or warehousing.
9. I consider the significance of the building is therefore partly architectural and partly historic, as its detailing and arrangement reflect its origins and evolution, whilst evidence of its historic uses are still apparent. Such matters contribute to its special architectural and historic interest.

10. The proposal concerns the first and second floors of the rearmost element. This part of the property is of a relatively utilitarian design, and currently maintains some of its commercial character through its simple and unadorned layout, the nature of its windows, and occasional detail such as the fireplaces and doors. Overall, this element therefore adds to the building's significance.
11. The site is within the Warwick Conservation Area. The significance of this lies to some degree in the way it comprises buildings of varying ages and styles, focussed around the town centre and the castle, that together reflect the development of this historic settlement through many centuries. This diversity is an important element of its character and appearance as it illustrates different phases of growth. The appeal site, with its detailing and its enlargement over time, makes a positive contribution to this significance.
12. For many years, the rear of the property would have been among a jumble of buildings of different scales and ages, and so would not have been particularly visible. However, in maybe the 1960s the area behind the appeal site was substantially cleared, and so now the building's rear is more exposed, and it is viewed in the context of a large service yard and a mix of older and relatively modern buildings, and their extensions.
13. The proposal is to form a single flat on each of the first and second floors of the rearmost element. Both floors now comprise 2 rooms – a larger one and a smaller. In neither case is any change proposed to the smaller room. However, the larger room on each floor would be sub-divided to form a bathroom and a kitchen, with the majority remaining open for use as a lounge. I consider though that a sufficient area would remain to reflect the spaciousness of the former use. The scheme would involve the loss of a large hatch as well as a steep staircase, but having regard to the evidence before me I consider these are not particularly old and are of limited heritage value. Therefore, the internal works would not harm the significance of this listed building.
14. Externally, the proposal would introduce an extension on the back of the rearmost element, that would rise from the existing yard to the second floor and provide staircase access to the 2 new flats. From the above, it is clear that the rear of this building was not intended to be prominent, as it was tucked away amongst the other buildings around.
15. The design of this extension would readily respect the rearmost element, whilst suitable materials and window details could be reasonably secured by condition. It would also have the benefit of removing the unsightly roofed area that covers much of the yard. Moreover, although tall it would nonetheless be a subservient element, and given the incremental manner in which this property has been extended over time, the presence of this further extension of a sympathetic design, character and appearance would not constitute a discordant or alien feature. As such, it would not harm this listed building.
16. Although it would result in the loss of some existing openings, their role in relation to the building is not so great as to mean this would harm its significance. Whilst there is an internal staircase at the moment that provides access to the second floor, I note the appellant's concerns about its steepness, and recognise that if it was to be used, albeit in a modified manner, it could reduce the openness of the 2 larger rooms. In any event, as I consider the rear extension would not cause harm, the presence of a possible alternative access does not lead me to different findings.

17. Finally, in the context of the conservation area, the extension would be seen against the variety of rear additions and elevations around the large service yard. Therefore, as I find it would relate appropriately to No 64-66, it would not be discordant or unsuited in this context. Accordingly, the scheme would not harm the significance of the conservation area.
18. I therefore conclude that the works would preserve the special architectural and historic interest of this Grade II listed building, they would not fail to preserve the character or appearance of the Conservation Area, and they would not harm the significance of either of these designated heritage assets. As such, they would not conflict with the Framework, or with Policy HE1 in the *Warwick District Local Plan*, which outlines the approach for protecting the historic environment, in line with the Framework.

Living conditions of future residents

19. In the first floor flat, the amended plans show the bedroom would look over the central yard to the roof slopes opposite. I consider this would be suitably private and, given the use of the room, would not be an overbearing arrangement.
20. The windows to the lounge in the first floor flat would look towards a first floor office window at a neighbouring property, some 7.5m distant. To my mind such an interface is appreciably below what is normally expected and would result in unacceptable levels of intervisibility. I acknowledge that the adjacent office is likely to be used for limited times only, and I recognise too this is a tight urban area. However, given the closeness of these windows and mindful they are the principal windows to the lounge, this arrangement would result in unacceptable privacy levels for future occupiers of the proposed flat.
21. The lounge on the second floor would have 2 relatively small rooflights only. I consider that, because of their size, high level and angled arrangement in the roofslope, they would allow the residents to have little visual relationship with the outside environment when in this room. As a result, they would create an oppressive atmosphere and an unacceptably poor outlook.
22. Accordingly, I conclude that the development would result in living conditions of an unacceptable standard in each of the flats, and so would conflict with Policy BE3 in the Local Plan, which seeks to resist development that would have such an impact.

Means of refuse disposal

23. The amended plans show areas of refuse disposal at the rear, behind the proposed extension and on the opposite side of the yard, and I understand refuse is collected from the front of the property on Market Place.
24. The Council's Waste Management consultee raised no objections subject to 2 points. The first was that refuse storage was not being accessed via steps. Given the flats are on upper floors with only stepped access shown, I assume this comment concerned access from the point of storage to the place from where it was collected, rather than from the flat to the storage area, as otherwise it could not have been resolved within the context of the application. In my opinion access from the points of storage to the Market Place would not involve negotiating any steps that would be an appreciable deterrent for those carrying refuse, and so that concern of the Waste Management consultee would

not apply. Adequate room would be at the rear of the premises to store refuse for 2 small flats, and while this would involve carrying waste to the front of the building, I have no reason to consider it would be unreasonable or would result in waste being stored in inappropriate places.

25. The Council expressed concern about the capacity of the yard to store the scheme's waste along with the waste from the rest of the building and also 2 parked cars. However, I see no reasons why pressure from refuse storage and parking associated with this proposal should be greater or more harmful than if the existing office use continued.
26. Accordingly, I conclude the waste storage would not be inadequate, and so would not harm the character and appearance of the area. Therefore, it would not conflict with Policy BE1 in the Local Plan, which requires development to make sufficient provision for waste management.

Highway safety

27. The staircase would reduce the size of the rear yard. Whilst this would make it difficult to park 2 cars independently in the remaining area, there would be certainly scope for one to park there. I am aware too that this yard area was the only parking provision for the entire building so therefore any of its employees, customers and residents would already be heavily reliant on parking elsewhere. Indeed, even if the yard was solely for the use of the part of this building subject of the appeal, that already has a demand associated with its lawful commercial use that, I was told, was greater than for the flats before me. I recognise too that this is a town centre location that could well encourage future occupiers to have reduced car ownership, and, if cars did in fact park on the street, there is no specific evidence or reason to show that would adversely affect highway safety or otherwise be harmful.
28. The rear yard itself opens into a large service area that is behind a number of other properties. This provides adequate turning to allow vehicles to enter and leave the yard safely.
29. The Reason for Refusal also states that this reliance on on-street parking will adversely affect the living conditions of nearby residents. If this is through difficulties resulting from increased challenges of finding parking in the congested town centre, the concern has not been articulated, and I have no basis to consider that the development would add materially to any existing experience.
30. Accordingly, I conclude that the development would not adversely affect highway safety or the living conditions of nearby residents, and so would not conflict with Policy TR1 in the Local Plan that concerns safe access, or the requirement in Local Plan Policy TR3 that development will only be supported if it does not generate on-street parking that is detrimental to highway safety. Moreover, any conflict with the requirement in Local Plan Policy TR3 that schemes should comply with the adopted parking standards does not offer a basis to resist the scheme.

Planning balance

31. I have found no harm in relation to Appeal B.

32. Turning to Appeal A, Section 38(6) of the *Planning and Compulsory Purchase Act 2004* says development should be in accordance with the development plan unless material considerations indicate otherwise (the planning balance).
33. Under this appeal I have found development plan conflict resulting from the harm to the living conditions of future residents that would be caused by the scheme. Balanced against that, the proposal would be providing 2 more flats in a sustainable location, but the weight I afford this is limited as I have found the accommodation to be unacceptable. I recognise too that it is providing a new use for part of a listed building, and seeking a reuse for the historic environment can often result in living conditions below what would otherwise be expected. However, I consider this is not sufficient to outweigh the scale of the identified harm in this instance. In any event, I have little to show this is the only option to bring this area of the building back into use or to secure the further benefit of the removal of the unsightly roofing over the yard. Therefore, these matters, even if taken together, do not outweigh the harm I have identified in relation to Appeal A.

Conditions

34. In relation to Appeal B, in order to safeguard the significance of this listed buildings details of the proposed materials and windows should be agreed. Moreover, the development should be in accordance with the approved plans.

Conclusion

35. I conclude that Appeal B should be allowed, but in the absence of any material considerations to outweigh the harm identified, Appeal A should be dismissed.

JP Sargent

INSPECTOR