



Appeal Decision

Site visit made on 21 November 2023

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 December 2023

Appeal Ref: APP/Q4625/W/23/3323191

Hampton Court, 55 Marsh Lane, Hampton in Arden, Solihull B92 0EW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 on the basis of a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Sattar Shah against Solihull Metropolitan Borough Council.
 - The application Ref PL/2023/00492/PPFL, is dated 26 January 2023.
 - The development proposed is conversion of remainder of roof space to create two additional apartments thereby providing a total of six apartments in the roof space.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of remainder of roof space to create two additional apartments thereby providing a total of six apartments in the roof space at Hampton Court, 55 Marsh Lane, Hampton in Arden, Solihull B92 0EW in accordance with the terms of the application, Ref PL/2023/00492/PPFL, dated 26 January 2023, subject to the conditions in the schedule at the end of this decision.

Application for costs

2. An application for costs was made by Sattar Shah against Solihull Metropolitan Borough Council. This application is the subject of a separate decision.

Preliminary Matters and Main Issue

3. The appeal form states the reason for the appeal is because the Council failed to give notice of its decision within the appropriate period. The Council advises that its planning committee resolved to refuse planning permission but before it could issue the decision notice the appeal was lodged. A copy of a decision notice has been provided. This is a matter that is more relevant to the determination of the aforementioned application for costs and has no bearing on my assessment of this appeal.
4. The description of development in the header and the decision above is taken from the application form. It is different to that on the Council's decision notice and on the appeal form but there is no evidence that a revision to the description has been agreed. In such circumstances, it is appropriate to base my assessment on the original description.
5. The Council has previously granted planning permission for the conversion of part of the roof space to form 4 apartments (hereafter referred to as the approved scheme). As far as I am aware, this development has not commenced but the permission remains extant. There is more than a theoretical possibility that this approved scheme would be carried out

irrespective of my decision on this appeal. Therefore, I have had regard to the fallback position provided by the approved scheme in my assessment.

6. The Solihull Local Plan 2013 (the LP) forms part of the development plan relevant to the appeal site. The Hampton-in-Arden Neighbourhood Plan 2017-2028 also forms part of the development plan but none of its policies are referred to by the Council in support of its case. Also, a local plan review document has been submitted for independent examination but this process has been paused. The Council officer's report (OR) states emerging policies pertinent to the proposal attract limited weight. I have adopted the same stance in my assessment of this appeal.
7. In light of the Council's submissions, the main issue is whether the parking to serve the proposed development would be satisfactory.

Reasons

8. Hampton Court has residential apartments over 2 floors. It has a pitched roof that would be converted into additional flats under the appeal proposal and the approved scheme. Around the building is a car park.
9. The appeal plans indicate the creation of 6 additional parking spaces to serve the proposed development and the approved scheme. The Council's concern relates specifically to the new space numbered 5 on the drawings, which would be at the end of an existing row of spaces on land that is now partly occupied by a cycle store. This and a nearby bin store would be removed and new store buildings would be provided to the side of the extended car park.
10. The plans show a gap between the side of space number 5 and the front of the proposed cycle store. Also, the space would be a similar size and shape to the others in the row. The highway authority officer advises that satisfactory circulation room would be provided to ensure space number 5 could be used for parking. All of these factors indicate the space would be sufficient.
11. Moreover, the plans show new parking spaces to be formed elsewhere on the appeal site. Spaces numbered 1 and 3 would directly adjoin bin and cycle stores yet the Council raises no concerns over their useability. I understand that the creation of these spaces formed part of the approved scheme and so they have already been allowed. This provides further indication that parking space number 5 would indeed be acceptable as it would benefit from a wider gap to the side than spaces 1 and 3.
12. The Council's refusal reason refers to LP policy P7 but this makes no mention of parking or useability of spaces and so it is not relevant to this main issue. In any event, for the above reasons, I conclude the parking to serve the development would be satisfactory.

Other Matters

13. Interested parties have raised a number of other concerns. Bearing in mind my conclusions on the main issue, the development would not lead to inappropriate parking or manoeuvring of vehicles on the appeal site. Marsh Lane is wide enough to let 2 vehicles pass and so there is no need for roadside parking as a result of the proposal to cause an obstruction to traffic. Construction works would be temporary and given the nature and scale of the

development they would avoid unacceptable noise disturbance to residents of the existing flats or other nearby dwellings.

14. The proposed bin and cycle stores would be larger than the existing albeit with a different footprint shape. Therefore, they would be of sufficient size to serve the needs of Hampton Court's residents. The stores would be positioned on land that currently forms a bank sloping up to the boundary of the site and their construction would require earthworks. However, such works would avoid unacceptable effects. Trees and bushes may need to be removed but the works would be away from a line of tall conifers behind Hampton Court and so they would not be affected. As such, the main landscape features on the site would remain and the proposal would not cause detriment to the character and appearance of the area.
15. Views from the proposed dormer windows towards other Marsh Lane residences would be obstructed by the conifer trees and so there would be no intrusive loss of privacy. The proposed alterations would respect the scale and design of the building. The OR explains there is no policy justification for the scheme to include affordable housing.
16. Various concerns are raised over the appellant's rights to carry out works to Hampton Court in light of covenants on the property. However, these are private matters and allowing this appeal would not affect any covenants.
17. The apartments would be on an upper floor and only accessible by stairs as no lift is proposed. This would make it difficult for those unable to climb stairs due to a mobility impairment to reside at or to visit the flats. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010. This sets out the need to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not share it. Since there is the potential for my decision to exclude persons with a protected characteristic, I have had due regard to the three equality principles set out in section 149.
18. The OR explains that, as of 1 April 2021, the Council could only demonstrate a 3.6 years' supply of housing land when assessed against established housing needs. No more recent figures have been provided. As this figure is below a 5 years' supply, paragraph 11 of the National Planning Policy Framework (the Framework) is engaged. In such circumstances, planning permission should be allowed unless any adverse effects of the proposal significantly and demonstrably outweigh its benefits.
19. The proposal would make a modest contribution towards the local housing stock but in light of the acknowledged shortfall in housing land supply this attracts moderate weight. Within this context, I find allowing the appeal and granting planning permission would be a proportionate response to the PSED. None of the concerns raised provide justification to refuse planning permission and so they do not affect my overall conclusion.

Conditions

20. The Council has suggested a list of planning conditions to be imposed in the event of the appeal being allowed. I have had regard to these in light of the tests of conditions set out in the Framework. Where appropriate I have made amendments in the interests of precision. The list includes a number of

suggested notes but these have not been advanced as suggested conditions and so they have not been imposed.

21. In the interests of clarity and to ensure the development is carried out as proposed, I include a condition that lists the approved plans. There is no need for a condition that requires the approval of external materials as sufficient detail is provided on the application form.
22. To prevent or minimise potential indiscriminate parking on the highway, I attach a condition that requires the proposed off-road spaces to be provided. There is no need for further details to be submitted and approved as the plans are adequate. Also, a condition that requires the proposed cycle and bin stores is needed to ensure residents are provided with suitable facilities and to safeguard the character and appearance of the area.
23. The site is next to a railway. A condition is imposed that requires approval of a noise assessment and the provision of mitigation measures to ensure future residents are not unduly disturbed by trains.
24. A condition that requires a method statement and risk assessment to be submitted to and approved by the Council and Network Rail is not needed as the Hampton Court building is away from the rail track. There is no reason why conversion works in the building's roof space would have any impact on the operation of the railway. For the same reasons, there is no need for conditions on fencing along the boundary with the railway, scaffolding, vehicle safety measures and a basic asset protection agreement. Also, I am referred to no LP policy that requires the provision of electric vehicle charging points and so a planning condition on this matter is unnecessary.

Conclusion

25. For the reasons given, I conclude that the appeal should succeed.

Jonathan Edwards

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: site location plan scale 1:1250 on A4; drawing number 1 side elevations – part A; drawing number 2 side elevations – part B; drawing number 3 existing and proposed front and side elevations – part C; drawing number 5 existing and proposed roof plan and proposed floor plan; drawing number 6 front and rear elevations; existing and proposed cross-section (same for both proposed apartments) scale 1:100 at A3 dated 31.07.2022; plan 1 proposed parking layout; proposed parking plan (2); proposed parking plan (3); location of proposed parking space scale 1:1250 on A4.

- 3) The proposed parking spaces as shown on the approved plans shall be provided before any part of the development hereby approved is first brought into use and thereafter the spaces shall be retained for parking purposes at all times.
- 4) The proposed cycle storage and bin store facilities as shown on the approved plans shall be provided before any part of the development hereby approved is first brought into use and the facilities shall be retained thereafter.
- 5) Before any apartments hereby approved are first occupied a noise assessment report shall be submitted to and agreed in writing by the local planning authority. The report shall detail the measurement, prediction and assessment of railway noise impacts upon the proposed development and any noise control measures. The approved noise control measures shall be implemented before any of the apartments are first occupied and the measures shall thereafter be maintained and used in accordance with the approved scheme.