



Appeal Decision

Site visit made on 23 January 2024

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2024

Appeal Ref: APP/T3725/W/23/3324874

17 High Street, Cubbington CV32 7LY

- 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 Mick O'Brien against the decision of Warwick District Council.
 - The application Ref is W/23/0068.
 - The development proposed is subdivision of first floor flat to create 2no. flats.
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Decision

1. The appeal is allowed and planning permission is granted for subdivision of first floor flat to create 2no. flats at 17 High Street, Cubbington CV32 7LY in accordance with the terms of the application, Ref W/23/0068 subject to the following 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; C17/100; C17/101D; C17/1 and C17/2A.

Preliminary Matters

2. The planning application originally proposed the demolition of a single storey outbuilding, the construction of a single storey dwelling, as well as the subdivision of an existing first floor flat to create two flats. Prior to the council making its decision, the proposal was revised by omitting the demolition of the outbuilding and the construction of the single storey dwelling from the scheme, so only the subdivision of the first floor flat remained. The application was determined on that basis and thus I will do the same. Accordingly, I have used the description of development taken from the decision notice, which is replicated on the appeal form, and more accurately describes the development as revised. I do not consider the parties are prejudiced by this approach.
3. Although I note that a rooflight is shown on the proposed floorplan but not the existing one, a rooflight of a similar size and position to that shown on the proposed floorplan was in situ when I undertook my visit. Neither main party alleges that the rooflight on site is unauthorised or should form part of the proposed scheme, and based on the evidence before me, the Council made its decision on the basis that no external alterations are proposed. I have therefore determined the appeal on the same basis as the Council.
4. The National Planning Policy Framework (the Framework) was updated following the issuing of the Council's decision. I have given the parties the

opportunity to comment on the updated Framework and I have taken these comments into consideration.

Main Issues

5. The main issues are: whether or not proposed Flat 1 would provide satisfactory living accommodation with particular regard to outlook; and whether or not there would be a satisfactory access arrangement to proposed Flat 2 with particular regard to safety.

Reasons

Living accommodation for the occupiers of proposed Flat 1

6. The layout of proposed Flat 1 would include an open plan lounge, kitchen and dining area. This would be an L shaped shared living space served by a single window located on the front elevation of the lounge and a large rooflight over the kitchen area. Between the proposed lounge and the kitchen there is currently a wall, and this is proposed to be reduced to around 900mm in height and a section of wall between the proposed kitchen and dining area would be removed. The Council considers that the dining area would not have an adequate level of outlook for the occupiers of the flat.
7. The Warwick District Council Residential Design Guide Supplementary Planning Document (SPD) notes that dining rooms are included in the definition of habitable rooms.
8. The dining area would have no flank windows, but nevertheless the dining area would receive adequate light throughout the day from the rooflight given its size and location. As a result of the position of the dining area the occupiers would not have a clear unimpeded view out of the window within the lounge. As such, outlook from the dining area would be limited to views out from the rooflight.
9. However, the dining area would only account for a small portion of the flat and regardless of whether or not it is a habitable room, the occupants would likely spend modest periods of time in there, to eat meals, work and socialise, for example. Additionally, the open layout of the shared living space would ensure that the dining area would not feel harmfully enclosed. This internal layout, alongside the large rooflight would ensure that the limited outlook from the dining area would not create an oppressive living environment for the occupiers. Overall, the layout of the flat would provide an acceptable standard of living conditions for the occupiers of proposed Flat 1.
10. I conclude that the outlook from proposed Flat 1 would provide satisfactory living accommodation for its occupiers and accord with Policy BE3 of the Warwick District Local Plan 2011-2029 (LP). This requires all development to provide acceptable standards of amenity for future users and occupiers of the development. The proposal would also accord with the guidance in the SPD insofar as it generally seeks to ensure development does not result in unsatisfactory living conditions.

Access arrangement for proposed Flat 2

11. The access for proposed Flat 2 would utilise the existing staircase that leads to the rear first floor of the building. To access the rear of the property the

occupiers would need to walk down the driveway that extends along the flank wall of the building and leads to the car park to the rear of it. The driveway itself is relatively wide and is only enclosed by a building on one side.

12. There is a house opposite the driveway, as well as next to it and there are windows within these properties that overlook the driveway. The windows in the ground floor flats also overlook it. As such, there are multiple properties that overlook the driveway which provides passive surveillance of it. Therefore, there are clear views of the driveway and anyone walking along it.
13. The rear car park as well as the staircase leading to proposed Flat 2 are overlooked by windows within the flank wall of the adjacent property as well as the rear windows of the houses around the site and the rear windows of the ground floor flats. Whilst the rear of the property is not part of an active frontage, the rear is overlooked by several properties which provides passive surveillance. Additionally, the rear car park is relatively large and open which would ensure that there would be a clear field of view across it for those entering and leaving the flat. Given the size of the car park and because there are no buildings that physically bound the rear of it, the rear of the site would not feel oppressive or harmfully enclosed. Overall, there would be a safe, suitable and desirable pedestrian access to the flat.
14. It is also noted that the rear first floor entrance has previously been used without issue as the main entrance to the first floor flat. Whilst the occupiers of the first floor flat could have used both the front and rear entrance, no substantive evidence has been provided to identify that the use of this entrance has led to safety or security issues for the occupants.
15. Accordingly, I conclude that there would be a satisfactory access arrangement to proposed Flat 2. Therefore, the proposal would accord with Policy TR1 of the LP. This states that development will only be permitted which provides safe, suitable and attractive access routes for pedestrians, cyclists, refuse vehicles and other users of motor vehicles, as appropriate.

Other Matters

16. The building is located within the Cubbington Conservation Area (CA) and the site is next to the Grade II listed 19 High Street. As such I have had regard to my statutory duties provided by Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
17. Given that the proposed development would be limited to internal changes, the contribution the building makes to the significance of the CA as well as the setting of the listed building would effectively remain the same. Accordingly, the character and appearance of the CA and the setting of the listed building and the contribution it makes to its significance would be preserved.

Conditions

18. Further to the statutory commencement condition a condition requiring the development to be carried out in accordance with the approved plans is necessary in the interest of certainty.
19. The Council has suggested conditions relating to a Sustainability Statement, water efficiency standards, electric vehicle charging points and contamination.

20. However, it has not been demonstrated that a condition requiring the submission of a Sustainability Statement and the delivery of sustainable construction and energy efficiency measures is proportionate or achievable in this case, or thus relevant to the development to be permitted or otherwise reasonable, given that the proposal entails only internal development and most of the criteria within the condition would require alterations or additions to the exterior of the building. As such, I have not imposed it. For the same reasons I am not satisfied that a condition requiring compliance with the suggested water efficiency standards is reasonable. Accordingly, I have not imposed it.
21. The Planning Practice Guidance states that decisions should avoid duplication of regulations from other regimes. Electric vehicle charging points are now addressed by the updated Building Regulations approval and as such it is not necessary to include a condition requiring them.
22. There is no substantive evidence that the site or the historic use of the building would give rise to potential contamination issues to require a precautionary condition for contamination. As such the suggested condition does not meet the test of necessity and I have not imposed it.

Conclusion

23. The proposal would accord with the development plan as a whole and the other material considerations do not indicate that a decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be allowed.

G Sibley

INSPECTOR