

Appeal Decision

Site visit made on 16 July 2024

by B Astley-Serougi BA(Hons) LLM MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2024

Appeal Ref: APP/T3725/W/24/3340160

55 Henley Road, Warwickshire, Leamington Spa, CV31 2NZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Jutinder Dhut against the decision of Warwick District Council.
 - The application Ref is W/23/1222.
 - The development proposed is 'change of use of existing dwellinghouse (Use Class C3) to 5 bedroom HMO (Use Class C4). Proposed extension to comprise of 2no. 1 bedroom self-contained flats.'
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Decision

1. The appeal is allowed and planning permission is granted for change of use of existing dwellinghouse (Use Class C3) to 5 bedroom HMO (Use Class C4) and proposed extension to comprise of 2no. 1 bedroom self-contained flats at 55 Henley Road, Warwickshire, Leamington Spa, CV31 2NZ in accordance with the terms of the application, Ref W/23/1222, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application form states the development is for a 'change of use from single dwelling to three flats'. This is not an accurate reflection of the proposed development. Therefore, I have used the description of development from the appeal form and decision notice for clarity in the banner heading.
3. The description of development on both the appeal form and decision notice reference 'retrospective' but this is not a form of development. I have removed that word since it is not relevant in relation to acts of development.
4. The application plans that were considered during the determination of the planning application were annotated with the incorrect flat numbers. It is clear from the delegated report that this inaccuracy has not affected the Council's assessment of the proposal. For clarity, the development includes two flats and consequently 'Flat 3' should read as 'Flat 2'.
5. I saw during my site visit that some development had commenced on site. However, I have considered the appeal on the plans before me, as did the Council.

Main Issue

6. The main issue is the effect of the development on the living conditions of neighbouring residents, in respect of on-street parking.

Reasons

7. 55 Henley Road (No 55) is a semi-detached house located in a quiet established residential area. The appeal property fronts a public green space and is situated on a corner plot. There is no capacity for designated parking spaces at the property due to its location and therefore on road parking provision in close proximity to No 55 is relied upon by the existing occupants.
8. The appeal scheme would require 3 additional spaces to accord with the Warwick District Council Parking Standards Supplementary Planning Document (WDCPS). No 55 is not within a Residential Parking Zone (RPZ) and therefore the WDCPS states that *'All areas of unrestricted parking should be counted'*. The parking survey dated October 2023 has complied with the requirements of Appendix A of the SPD and there is no requirement in the stated methodology to include vehicles parked in restricted parking spaces in the survey. Therefore, the survey demonstrates that there are 15 spaces available for on road parking provision and thus the additional 3 spaces for the development can be accommodated within 200m of the appeal site.
9. Moreover, even if the 'non-permitted' parking was included in the parking survey, there would still be a minimum of 6 parking spaces available. Therefore, given the requirements and results of the parking survey, the required 3 additional spaces can be accommodated within 200m of the appeal site.
10. My attention has been drawn to the parking stress in the locality of No 55. Appendix A of the WDCPS states that *'...stress levels of over 100% stress (or 100% occupancy level) are possible. This is because small cars may need less space than 5m to park, meaning that additional cars can be accommodated.'* Therefore, although parking stress may at times be present it does not automatically result in there being no further capacity for parking as per Appendix A. Given I have identified above further capacity for 3 additional spaces, there is insufficient evidence to suggest that the existing perceived parking stress would be exacerbated by the proposed development.
11. The development does not conflict with Policy TR3 of the Warwick District Local Plan 2011-2029 (WDLP) which seeks to ensure that development does not have an adverse effect upon the safety of pedestrians and highway users. Additionally, the development would not result in an unacceptable adverse impact upon the amenity of nearby residents and therefore is not in conflict with Policy BE3 of the WDLP. Furthermore, the development accords with the Warwick District Council Parking Standards SPD which seeks to ensure adequate parking provision for new developments.

Other Matters

12. Objections to the development have been made by interested parties. These include concerns about the effect the development would have upon parking stress which I have already dealt with. There is insufficient evidence before me to demonstrate that the appeal scheme would result in harm to highway

safety. The appeal site is a large corner plot and designed sympathetically, ensuring the location of the windows on the first floor would not result in a loss of privacy for neighbouring properties. There is limited evidence that the addition of future occupiers will result in significant harm to the privacy of neighbouring properties.

13. The location of the proposed development is stepped in, thus ensuring no loss of sunlight or daylight for the habitable rooms of neighbouring properties. Consequently, there is limited evidence before me to suggest that the appeal scheme would result in harm to the living conditions of neighbouring properties in regard to loss of daylight or sunlight.
14. Additionally, the Council have not refused the appeal scheme on the grounds of design, noise, anti-social behaviour or bin storage. Moreover, comments received from the Waste Services of Warwick District Council have confirmed the bin storage on the plans are sufficient. Furthermore, there is limited evidence before me that suggests the appeal scheme would result in significant harm to the character and appearance of the surrounding area nor the living conditions of neighbouring properties on these grounds. I therefore find no reason to disagree with the Council's conclusions on these matters.
15. My attention has been drawn to previous applications and the position that the application before me has undergone no changes in comparison to the previous applications. However, I do not have the details of these before me and therefore I have determined the appeal on the plans and information before me as did the Council.
16. The Council in their letter to interested parties notifying them of the appeal gave 23 working days' notice. This is a sufficient amount of time for comments to have been submitted.
17. Concerns have been raised in regard to safety during the building works. This matter is outside my jurisdiction in determining this appeal.

Conditions

18. In addition to the standard time limit condition (1), I have attached a condition specifying the approved plans to provide certainty (2). A condition relating to materials is necessary to ensure the development will assimilate with the original house and therefore prevent any erosion of the area's character (3).
19. I have imposed a condition relating to the hours of construction to ensure the living conditions of neighbouring properties will not be harmed (4). Additionally, a pre-commencement condition is necessary to ensure the development will provide a satisfactory level of biodiversity net gain to comply with the requirements of National Planning Policy Framework. I have in writing the agreement of the appellant to this pre-commencement condition (5). Furthermore, a pre-commencement condition is required to ensure that should any bats be discovered during the demolition/construction appropriate precautions and remedial work is implemented. The condition needs to be pre-commencement so as to ensure no harm is caused to the protected species as a consequence of the development. I have in writing the agreement of the appellant to this pre-commencement condition (6). I have

attached a final condition to ensure the total bedrooms in the HMO are 5 and the number of bedrooms in the each of the two flats are 1. This is a necessary condition so as to ensure highway safety and residential amenity (7).

Conclusion

20. For the reasons given above the appeal should be allowed.

B Astley-Serougi

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing no 11917-500 REV D (site location plan, block plan, elevations and floor plan).
- 3) The external materials of the extension hereby permitted shall match those used in the existing dwelling.
- 4) Demolition or construction works shall take place only between 08:00 to 18:00 on Monday to Friday, and 08:00 to 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 5) Prior to first occupation of the development hereby permitted:
 - (a) details of biodiversity enhancements to achieve a net gain in biodiversity have been submitted to and approved in writing by the local planning authority; and
 - (b) the biodiversity enhancement measures approved under (a) have been completed in strict accordance with the approved details, with the exception of any planting, which must be completed within the first planting season following first occupation.

The biodiversity enhancement measures shall thereafter be retained and maintained in strict accordance with the approved details in perpetuity.
- 6) Prior to the commencement of any works to the roof of the building/single storey extension/associated structures to be demolished/affected (the roof works), a suitably qualified person shall be appointed to supervise such works. Under the supervision of the appointed person the roofing material shall be removed carefully by hand. Should any evidence of bats be found during the roof works, those works shall cease immediately and the appointed person shall consult Natural England and the Council's ecologist (WCC Ecological Services) for further advice. Any subsequent survey work, recommendations or remedial works will be implemented within the timescales agreed between the suitably qualified person and the Local Planning Authority, in writing. Notwithstanding any requirement for remedial work or otherwise, the suitably qualified person's report (to include any evidence found of presence or absence) shall be submitted to the Local Planning Authority within 1 month following completion of the supervised works to summarise the findings.
- 7) The total number of bedrooms in the HMO shall not exceed 5 and the total number of bedrooms in the 2no. flats shall not exceed 1 and shall be retained in strict accordance with the approved details in perpetuity.