



Appeal Decision

Site visit made on 22 April 2025

by N Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 May 2025

Appeal Ref: APP/T3725/W/24/3353106

9 St. John's, Warwick, Warwickshire CV34 4NE

- 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 Sophia Simons against the decision of Warwick District Council.
 - The application Ref is W/23/0826.
 - The development proposed is change of use of existing commercial unit to dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted a drawing (Drawing No. 10424-301 Rev A) which shows an alternative internal layout. This represents a minor alteration to the original scheme. The appellant has also submitted marketing information with the appeal. This does not represent an amendment to the proposal. The Council has had the opportunity to comment on these documents. On this basis, I do not consider that any party would be unfairly prejudiced, and I therefore have had consideration to these documents in determining this appeal.
3. A revision to the National Planning Policy Framework (the Framework) was published on 12 December 2024. The main parties were given an opportunity to comment on the effect of these changes. This decision is based on the current Framework and has taken account of the representations made on this.

Main Issues

4. The main issues are:
 - The effect of the proposal on the viability and vitality of the town centre; and
 - Whether the proposal would provide adequate living conditions for future occupiers, with particular regard to the quality of the internal space.

Reasons

Viability and vitality

5. The appeal site comprises a mid-terrace building located within Warwick town centre in an area defined as a secondary retail area in the Warwick District Local Plan (2017) (LP). The property was last in use as a funeral directors (class E use) in 2018. It is proposed to change the use of this building to a dwelling.

6. LP policy TC3 states that within the town centre retail areas, changes of use from uses within use class A to other uses outside of use class A will not be permitted except for within the defined secondary retail areas, where changes to hotels and assembly and leisure uses will be permitted. LP Policy TC7 is supportive of changes of use from retail uses in secondary retail areas to other specified uses (financial and professional services, restaurants and cafes, drinking establishments, hot food takeaways, assembly and leisure uses) provided that certain criteria are met.
7. The appeal proposal would result in the loss of a ground floor retail unit within a secondary retail area. The proposed residential use is not one of the uses listed under LP Policies TC3 or TC7 as being acceptable within secondary retail areas. Given this, whilst noting that the proposal would not result in more than 50% of the street frontage being in non-retail use and would not create a continuous non-retail frontage of more than 16 metres, the loss of the retail unit would conflict with LP policies TC3 and TC7. Whilst acknowledging that national and local planning policy seek to create diverse and active town centres, which includes support for residential uses, there is no suggestion that this should be at the expense of the retail function of these areas.
8. The supporting text to LP policy TC7 states that “in instances where there is thorough evidence to substantiate that a unit has been vacant and actively and appropriately marketed for over 12 months, the Council will consider setting aside the requirements of Policy TC7 and allowing other uses.” The appellant has provided details of 2 periods in which the property has been marketed. There is limited information before me regarding the first marketing campaign (December 2019 to August 2020). The second marketing campaign (from June 2024) included the display of a sale board and the use of online property portals and brochures. However, this marketing campaign promoted the building as an office, as opposed to a wider range of Class E uses, and only marketed the building for rent. I cannot therefore be assured that there is no interest in the appeal building for any Class E use.
9. Furthermore, whilst it is stated that the marketing of the property resulted in very little interest, information on the numbers of viewings and interested parties over a marketing period of at least 12 months is absent, as is information and analysis on the rent being asked when compared to similar premises in the local area. Therefore, I do not consider that I have sufficient evidence before me to be satisfied that all opportunities to sell or re-let the accommodation have been fully explored.
10. On the basis of the evidence before me, I cannot be assured that there is no realistic prospect of the unit being used in Class E purposes. Thus, the loss of the existing retail use would be harmful to the viability and vitality of the town centre. The proposal would therefore be contrary to those aims of LP policies TC1, TC3 and TC7 as set out above. Conflict also arises with the Framework which seeks proposals to not have a harmful effect on vitality and viability of Town Centres and to maintain and enhance the retail function.

Living conditions

11. Future occupiers of the development would be provided with a kitchen/ dining room to the ground floor which would be sited towards the front of the building and would receive natural light from the shopfront window. I am satisfied that this room would

benefit from adequate light and outlook. There is no suggestion that the development would not be used in accordance with the proposed layout. Whilst I note that the proposed utility/ storage room would not be served by a window, and thus would not have any outlook or natural light, as a room in which occupiers typically do not spend a great deal of time, this would not harm the living conditions of the occupiers of the property.

12. For the above reasons, the proposal would provide acceptable living conditions for future occupiers. I therefore consider that the concerns of the Council in relation to this issue have been addressed and find no conflict with LP Policy BE3 which states that development will not be permitted that does not provide acceptable standards of amenity for future users and occupiers of the development.

Other Matters

13. Statute requires that I pay special regard to the desirability of preserving a listed building or its setting¹. 3 Priory Road and 2-4 St Johns are grade II listed buildings. St Johns House is a grade I listed building, and its associated entrance gateway and flanking boundary walls are grade II* listed. There is no indication that the site has any form of historic significance in association with these buildings. The proposal would retain the existing shopfront and no external alterations to the front elevation are proposed. Therefore, the setting of these listed buildings would be preserved.
14. In support of the proposal, the appellant references alterations which could take place under Class MA of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015, which allow for development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order. However, prior approval for the referenced change of use under Class MA has not been granted and I cannot be certain that permission would be forthcoming. Given this, I afford this limited weight as a fallback position.
15. Additionally, reference is made to potential alterations to the layout of the building which would result in residential use to the ground floor frontage of the building without the requirement for planning permission. However, there is limited information before me setting out how the Class E use of the building would be retained for such a layout. Furthermore, this would appear to be a substantially different proposition to the appeal proposal. Given this, I afford this limited weight as a fallback position.

Planning Balance

16. The Council is unable to demonstrate a 5-year housing land supply. Paragraph 11 d) of the Framework indicates that, in such circumstances where the requisite housing land supply cannot be shown, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

¹ Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990

17. The proposal would provide one additional dwelling on a brownfield site with good access to facilities, services and public transport. However, the benefits of housing delivery, to which I have attached significant weight, are tempered by the fact that the provision of one additional unit would only make a small difference to housing supply.
18. On the other hand, the proposal would result in harm to the viability and vitality of the town centre. Conflict therefore arises with Chapter 7 of the Framework which states that decisions should support the role that town centres play.
19. Consequently, I find that the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal therefore does not benefit from the presumption in favour of sustainable development.

Conclusion

20. The proposal would conflict with the development plan. Material considerations, including the Framework, do not indicate that the decision should be made other than in accordance with the development plan. Therefore, the appeal is dismissed.

N Robinson

INSPECTOR