



Appeal Decision

Site visit made on 23 April 2026

by **S Bennett-Matthews**

an Inspector appointed by the Secretary of State

Decision date: 26 June 2026

Appeal Ref: APP/T3725/W/25/3371970

Office Building, Emscote Old Wharf, 73 Emscote Road, Warwick CV34 5QR

- 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 Faxton Ltd against the decision of Warwick District Council.
 - The application Ref is W/25/0222.
 - The development proposed is change of use of building comprising 4 no. office units (Use Class E) to 4 no. 2-bedroom apartments (Use Class C3).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed development would provide suitable living conditions for future occupiers, with particular regard to outlook; and
 - the effect of the proposed development on the supply of employment land.

Reasons

Whether the proposed development would provide suitable living conditions.

3. The appeal site comprises an existing office building located outside the town centre within a courtyard-style development which includes residential properties. The wider locality of the appeal site is characterised by a mix of commercial and residential development.
4. The proposal would convert four existing office units into four two-bedroom flats arranged over two floors. The flats would be positioned in the courtyard, with parking at ground floor level beneath the building and communal access arrangements.
5. The windows serving the principal living areas including the kitchen and living areas of Plots 10, 11 and 14 would incorporate louvred screens. Whilst these would allow light and ventilation, the louvred screens would restrict direct outward views. This arrangement would result in a materially restricted outlook from these windows from the principal living areas.
6. Although, Plot 12 would be served by three windows, two of which would incorporate fixed loured screens, I find their arrangement similarly result in a restricted outlook. In addition, the second bedroom of Plot 11 would be devoid of any meaningful outlook, relying solely on a rooflight and obscure glazing.

7. Taken together, I find that the presence of louvred screens to the windows serving the principle living areas of Plots 10, 11 and 14, together with the limited window arrangements in Plot 12 (which would incorporate louvred screens), and the reliance on a rooflight and obscure glazing in Plot 11, would result in a poor relationship between the internal living spaces and the external environment. This would give rise to a poor outlook and unacceptably constrained and oppressive internal environment for future occupiers.
8. Accordingly, the proposal would fail to provide an acceptable standard of living conditions for future occupiers.
9. The proposal would therefore conflict with Policy BE3 of the Warwick District Local Plan 2011-2029 ("the Local Plan"), which seeks to ensure a high quality-living environment and that development does not result in unacceptable impacts on the amenity of future occupiers.

Supply of employment land.

10. Policy EC3 of the Local Plan resists the loss of employment land and buildings outside defined town centres, unless certain criteria are met.
11. Notably, criterion (a) requires it to be demonstrated that there is an adequate supply of suitable employment land and premises to meet identified needs, having regard to both quantity and quality, and criterion (b) requires it to be demonstrated that the continued use of the land or buildings for existing or alternative employment uses would not be viable.
12. The appellant refers to the employment land target at Policy DS8 and argues that the site is of limited scale and does not form part of the Local Plan's identified employment land supply. However, this does not in itself demonstrate that its loss would be acceptable since Policy EC3(a) seeks to resist the loss of all employment land and buildings outside town centres, unless its criteria are met.
13. There is limited substantive evidence before me regarding the availability of comparable employment premises within the area, or the extent to which existing employment land supply, in both quantitative and qualitative terms, would meet identified needs without a reliance on this site. In particular, there is insufficient evidence to demonstrate that alternative premises of an appropriate type, size, and location are available to accommodate potential occupiers.
14. In the absence of clear robust evidence demonstrating that the loss of these units would not undermine the supply of employment land, I am not satisfied that criterion (a) has been met.
15. Turning to criterion (b) of Policy EC3, this requires clear evidence that the existing use is no longer viable, including through a robust and sustained marketing exercise over a period of two years.
16. The evidence in the form of a Marketing Statement indicates that the office units were marketed between 2022 and 2025 through estate agents and online platforms. However, it is unclear whether the units were consistently marketed for both sale and rental over the full two-year period, and whether the pricing strategy reflected market conditions.

17. It is stated that no offers were received for the sale or let of the office units, but there is limited detailed evidence of enquiries, viewings, or feedback from prospective occupiers, which would enable a more robust assessment of demand.
18. Whilst I acknowledge that the site may be subject to constraints, including its location within a predominantly residential setting, lack of clear commercial identity, limited access, restricted parking provision and its out-of-town location and modest size, these factors do not in themselves demonstrate that the premises are no longer viable for employment use.
19. In particular, such constraints would be expected to be tested through a robust and sustained marketing exercise over the appropriate period. However, the evidence before me does not clearly demonstrate that this occurred including whether the units were consistently offered for rental during the relevant period.
20. Given these uncertainties and the absence of clear and compelling evidence demonstrating that the appeal site has been adequately marketed, I am not satisfied that criterion (b) of Policy EC3 has been met. Accordingly, the proposal would conflict with Policy EC3.

Other Matters

21. The appeal site lies within the Canal Conservation Area. I have therefore had regard to the statutory duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
22. From my observations, the significance of the Conservation area appears to derive from its association with the Gran Union Canal and its water side setting.
23. The proposal would involve limited external alterations which would include changes to fenestration and the installation of louvres to windows on the north-east elevation. I find that these changes would be modest in scale and would not materially affect the building's relationship with the canal or its wider setting.
24. I therefore find that the proposal would preserve the character and appearance of the CA and the duty under section 72(1) is therefore satisfied.
25. The appellant refers to a fallback position under Class MA of the General Permitted Development Order, which allows for the change of use from Class E (commercial, business and service) to Class C3 (dwellinghouses) subject to prior approval.
26. However, a requirement of Class MA is that the building must have been in Class E use for a continuous period of at least two years prior to the application. In this case there is no clear evidence before me that the building has been occupied or in active use for this period.
27. Accordingly, I am not satisfied that the requirements of Class MA would be met, and therefore there is no realistic prospect of the fallback position being implemented. I therefore attach limited weight to this matter.

Planning Balance and Conclusion

28. The Council acknowledges that it cannot demonstrate a five-year supply of deliverable housing sites. Consequently, the presumption in favour of sustainable development, as set out in paragraph 11(d) of the National Planning Policy Framework (“the Framework”), applies. This indicates that planning permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies.
29. As set out above, I have found that the proposal would fail to provide acceptable living conditions for future occupiers and would result in the unjustified loss of employment floorspace. The key policy at paragraph 135 of the Framework requires development provide a high standard of amenity for existing and future users. In addition, paragraph 85 of the Framework states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. Therefore, the conflict with Warwick District Local Plan Policies BE3 and EC3 attract significant weight against the proposal.
30. Set against this harm, the proposal would deliver four dwellings and would therefore make a modest contribution towards housing supply in a sustainable location. Small sites can make a meaningful contribution towards housing delivery and may be built out relatively quickly. In addition, some limited economic benefit would arise through increased expenditure at nearby shops and services. Therefore, the benefits of the scheme carry moderate weight in its favour.
31. Taking all matters into account, I conclude that the identified adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. The presumption in favour of sustainable development therefore does not indicate that planning permission should be granted.
32. For the reasons given above, the development is contrary to the development plan when considered as a whole. There are no material considerations which indicate that the proposal should be allowed contrary to the development plan. Therefore, having had regard to all other matters raised, the appeal is dismissed.

S Bennett-Matthews

INSPECTOR