

## Appeal Decision

Site visit made on 21 November 2016

**by A A Phillips BA(Hons) DipTP MTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 2 December 2016**

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**Appeal Ref: APP/L5810/W/16/3156689**

**Lower Ground Floor, 57 Church Road, Richmond TW10 6LX**

- 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 George Wills against the decision of the Council of the London Borough of Richmond-upon-Thames.
  - The application Ref 16/2151/FUL, dated 31 May 2016, was refused by notice dated 5 August 2016.
  - The development proposed is change of use from current use by the Labour Party (D2) to use as a residential dwelling (C3) with a rear extension.
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### Decision

1. The appeal is allowed and planning permission is granted for a change of use from current use by the Labour Party (D2) to use as a residential dwelling (C3) with a rear extension at Lower Ground Floor, 57 Church Road, Richmond TW10 6LX in accordance with the terms of the application, Ref 16/2151/FUL, dated 31 May 2016, subject to the following 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 the following approved plans: CR\_PRO\_LOC\_001, CR\_EX\_DWGS\_001, CR\_PRO\_DWGS\_001, CR\_PRO\_LAND\_001 and CR\_EX\_LOC\_001.
    - 3) No new external finishes (including fenestration), including works of making good, shall be carried out other than in materials to match the existing building.
    - 4) The roof of the building shall not be used for any purposes other than as a means of escape in emergency or for maintenance of the building.
    - 5) The dwelling shall not be occupied until arrangements for the storage and disposal of refuse / waste have been made in accordance with details to be submitted to and agreed in writing by the local planning authority.
    - 6) The dwelling shall not be occupied until cycle parking facilities have been provided in accordance with detailed drawings to be submitted to and approved in writing by the local planning authority. Those facilities shall thereafter be kept available for the parking of bicycles.
    - 7) Before the development hereby approved commences a scheme shall be agreed with the local planning authority and be put in place to ensure that, with the exception of disabled persons, no resident of the
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development shall obtain a resident parking permit within any controlled parking zone which may be in force in the area at any time.

- 8) The dwelling hereby approved shall achieve a BREEAM Domestic Refurbishment Rating Excellent; in accordance with the terms of the application and the requirements of the BREEAM scheme. The dwelling shall not be occupied until a Final BREEAM Certificate has been issued for it and produced to the local planning authority certifying that BREEAM Level has been achieved.

### **Application for costs**

2. An application for costs was made by Mr George Wills against the Council of the London Borough of Richmond-upon-Thames. This application is the subject of a separate decision.

### **Main Issue**

3. The main issue is whether or not the proposal would make adequate provision for affordable housing.

### **Reasons**

4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 state that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
5. Policy CP15 of the London Borough of Richmond Upon Thames Local Development Framework Core Strategy 2009 (the CS) and Policy DM HO 6 of the London Borough of Richmond Upon Thames Local Development Framework Development Management Plan 2011(DMP) relate to the provision of affordable housing. On housing sites capable of accommodating less than ten units policies require a financial contribution towards affordable housing related to the scale of the development. More detailed guidance is provided in the London Borough of Richmond Upon Thames Supplementary Planning Document Affordable Housing 2014 (Housing SPD).
6. On 28 November 2014 a Written Ministerial Statement (WMS) was published setting out the Government's policy with respect to Section 106 obligations. The WMS included a threshold beneath which affordable housing contributions should not be sought. The WMS was the subject of a High Court judgement on 31 July 2015 which upheld an application by West Berkshire District Council and Reading Borough Council challenging the WMS. Therefore, the WMS was no longer a material planning consideration.
7. However, on 11 May 2016 a Court of Appeal judgement upheld the Secretary of State's appeal and overturned the High Court judgement. Therefore, the WMS is a significant material consideration setting out particular circumstances when tariff style affordable housing contributions should not be sought from developments of ten units or less. Accordingly, updated paragraphs have been added to the Planning Practice Guidance (PPG) section on planning obligations to reflect the current position.
8. Although the Council's evidence indicates that there remains substantial need for affordable housing and the local planning authority considers there are circumstances that justify the continued implementation of the development

plan policies, it is clear to me that the proposal would comply with the circumstances where a contribution towards affordable housing should not be sought.

9. Although the provision of such a contribution would accord with Policy CP15 of the CS and DM HO 6 of the DMP, significant weight must also be given to the approach set out in the WMS which provides clarification on national policy alongside the National Planning Policy Framework (the Framework). Therefore, although the proposal conflicts with the development plan by making no contribution towards affordable housing provision, the conflict is outweighed by the change in Government policy as set out in the WMS.
10. I therefore conclude that a financial contribution is no longer required to make adequate provision for affordable housing.

### **Conditions**

11. The Council has suggested a list of conditions which I have considered, and where necessary amended, in line with national policy and guidance. I have attached conditions limiting the life of the planning permission and setting out the requirements for the reserved matters in accordance with the Act. I have specified the approved plans for certainty.
12. To ensure the development is in keeping with the existing building I have imposed a condition relating to matching materials. I have restricted the use of the roof to safeguard the amenities of the occupants of adjoining properties. In order to safeguard the appearance of the property and the area, generally I have imposed a condition requiring arrangements for refuse / waste disposal.
13. In accordance with highways requirements I have imposed conditions requiring the provision of cycle parking and limiting the opportunity for future residents to obtain a parking permit within any controlled parking zone in the area.
14. Finally, in order to promote sustainable forms of development I have attached a condition requiring the development to achieve the relevant BREEAM rating for domestic refurbishments.

### **Conclusion**

15. For the above reasons and taking account of other matters raised I conclude that the appeal should be allowed.

*Alastair Phillips*

INSPECTOR