

## Appeal Decision

Site visit made on 13 June, 2017

**by S. J. Buckingham, BA (Hons) DipTP MSc MRTPI FSA**

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

**Decision date: 29<sup>th</sup> June, 2017**

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**Appeal Ref: APP/L5810/W/17/3168508**  
**2 - 4 Heath Road, Twickenham, TW1 4BZ**

- 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 Sundeep Bhavra of GA & A Design against the decision of the Council of the London Borough of Richmond-upon-Thames.
  - The application Ref: 16/2216/FUL dated 2 June, 2016 was refused by notice dated 30 August, 2016.
  - The development proposed is change of use from existing open hall (D1) into 2 x residential apartments (C3).
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. The appellant has submitted a drawing showing a revised floor layout to the proposed flats, incorporating wall hung cycle storage and bin stores. As these are relatively minor internal changes and no party would be prejudiced by my taking this drawing into account, I have done so.
3. Since the original application was determined, the Council's Local Plan (publication version) was submitted for Examination. Although, however, it is at a more advanced stage of preparation, its policies may still be subject to change, and I have therefore accorded it limited weight.

### Main Issues

4. On the basis of the revised drawing, the Council has withdrawn its reason for refusal relating to the provision of cycle and refuse storage.
  5. The Council's first reason for refusal refers to loss of social infrastructure space, referring to policy CP16 of the Core Strategy 2009 (CS). The justification of Policy CP16 at paragraph 8.3.4.6 defines infrastructure conventionally as transport and utilities, as distinguished from community facilities. Policy DM SI 2 of the Development Management Plan 2011 (the DMP) refers to social infrastructure, which it equates with facilities and services used by the community. It appears to me as a result that the term social infrastructure, since it is not defined explicitly in these policies, would most appropriately be read as relating to community facilities.
  6. The main issues in this case are, therefore:
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- a) whether the proposal would involve the loss of a community facility in conflict with policy CP16 of the CS and policy DM SI 2 of the DMP and if it would, whether any harm would arise; and
- b) whether the proposal would make adequate provision for affordable housing.

## **Reasons**

### *Loss of a community facility*

- 7. The appeal building is a three storey building set in the busy retail frontage of Heath Road. There is retail use at ground floor and flats on the first floor. The second floor, which is open, is accessible via an open staircase. It was empty at the time of my site visit except for some stored building materials, and had no dedicated toilet or kitchen facilities, and no light fittings.
- 8. Permission for change of use of the open second floor to a D2 fitness and weight loss centre was granted in 2003. The evidence put in front of me indicates that the space was last in used for this purpose in 2014, and has not been used since then. The appellant's contention is, however, that the current use of the space is for D1, although it is not clear on what basis.
- 9. Policy CP16 of the CS and Policy DM SI 2 of the DMP state that loss of community facilities will be resisted unless it can be shown that the facilities are no longer needed, or that the service could be adequately re-provided in a different way or elsewhere. The justification section of policy CP16 defines community facilities as essential for the Borough's population, and to include public services, community centres, public halls, arts and cultural facilities, policing, fire and ambulance services, youth centres, libraries, places of worship and services provided by the voluntary sector. There is no stated correlation between these facilities and use classes D1 or D2, although there is some overlap.
- 10. On basis of the list given and the Council's own association of community facilities with public and voluntary provision, it does not appear plausible to me that a privately run health and fitness centre could be considered as a community facility for the purposes of this policy, or of policy DM SI 2 of the DMP. Even were the space itself considered to be a potential community facility, its practical limitations, which include a lack of kitchen or toilets, staircase-only access, limited parking or drop-off facilities and a lack of presence on the street frontage, would severely constrain its use or adaptation for such use, and alternative locations for community facilities would be likely to be far more convenient and suitable.
- 11. I consider therefore that loss of the existing space would not constitute a loss of a community facility and would therefore present no clear conflict with policy CP16 of the CS or policy DM SI 2 of the DMP. I have identified no harm from the proposed change of use, and consider that it would provide a modest benefit in terms of provision of additional housing.

### *Whether the proposal would make adequate provision for affordable housing*

- 12. Policy CP15 of the CS says that some form of contribution towards affordable house will be sought on all new housing sites, while policy DM HO 6 of the DMP says that on sites capable of less than 10 units gross, a financial contribution to

the Affordable Housing Fund commensurate with the scale of development will be required.

13. As far as the development plan is concerned therefore, a contribution should be made towards meeting affordable housing needs in the borough. Section 38(6) of the Planning and Compulsory Purchase Act requires that applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
14. Following a Court of Appeal judgement<sup>1</sup> on 11 May 2016, and the reinstatement of the Written Ministerial Statement of 28 November, 2014 updates to the Planning Practice Guidance in relation to planning obligations have set out government policy in relation to affordable housing, advising that contributions should not be sought from developments of 10 units or less. This is therefore a recent expression of national policy to which I have had regard as a material consideration attracting considerable weight.
15. However, local circumstances may justify a different approach. The Council has supplied evidence of exceptional local affordable housing need, and of the constraints in meeting this need through on-site provision from larger sites, and its subsequent reliance on contributions from small sites to meet affordable housing delivery targets. I see no reason to doubt this evidence, and attach very substantial weight to it, to the extent that I consider that it outweighs the requirements of national policy in this case.
16. The circumstances of this case indicate that a contribution to affordable housing would therefore be required, but no such contribution has been offered or made by way of a planning obligation. Furthermore no evidence has been put before me to indicate that such a contribution would affect the viability of the scheme. I conclude therefore that the proposal fails to make adequate provision for affordable housing and as a result fails to comply with Policy CP15 of the CS and policy DM HO 6 of the DMP. I conclude also that the harm arising from this failure to make provision for affordable housing would outweigh the modest benefit of providing two new dwellings.

## **Conclusion**

17. For the reasons given above therefore, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

*S J Buckingham*

INSPECTOR

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<sup>1</sup> Secretary of State for Communities and Local Government vs West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441