The Planning Inspectorate

Appeal Decision

Site visit made on 15 October 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2019

Appeal Ref: APP/P1940/W/19/3233790
Scotsbridge House, Scots Hill, Rickmansworth WD3 3BB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Millen Homes Ltd against the decision of Three Rivers District Council.
- The application Ref 18/2189/OUT, dated 1 November 2018, was refused by notice dated 3 April 2019.
- The development proposed is the demolition of offices and erection of new development of 33 flats with underground parking.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is made in outline with access and layout to be determined at this stage. Therefore, whilst elevation details are shown on some of the submitted drawings and views, these are illustrative in terms of scale and appearance as there may be alternative ways of developing the site. Nevertheless, it is reasonably clear from the appellants' submitted information in relation to viability[1] that a floorspace of 3,620sqm is proposed, in which specific reference is made to the provision of a green wall. As such, I have assessed the proposal on the basis that the plans reflect the appellants' detailed intentions in relation to scale and appearance.

Main Issue

3. The main issue is whether the proposed development makes appropriate provision for affordable housing, with reference to local and national planning policy.

Reasons

Background

4. This is the second appeal concerning a development of this nature on the site. The first was also for 33 flats with underground parking and was dismissed by an appeal decision dated 9 July 2019[2] and, amongst other matters, included the consideration of the provision of affordable housing. The appeal proposal before me differs principally in relation to the illustrative elevations submitted

[1] HCA Development Appraisal Tool dated 23.8.19.
[2] Reference APP/P1940/W/18/3214903

which indicate a lower height and a consequent reduction in overall floor area. Furthermore, approval exists for the change of use of the existing office building into 30 residential units under permitted development[3].

Affordable housing provision

5. The explanation for policy CP4 of the Three Rivers District Council Local Development Framework Core Strategy, October 2011 (CS) outlines that average house prices in the district are some of the highest in the country outside London. Therefore, in order to increase the provision of affordable homes to address local housing need the policy seeks around 45% of all new housing as affordable housing, incorporating a mix of tenures. This would equate to the provision of 15 affordable housing units within the appeal proposal when rounded up to the nearest whole number as stipulated by policy CP4. It goes on to state that in assessing affordable housing requirements account will be taken of the site circumstances and financial viability.

6. The Three Rivers District Council Affordable Housing Supplementary Planning Document, June 2011 (SPD) indicates that the onus is on the developer to provide robust justification if less than 45% provision of affordable housing is proposed on the basis of financial viability. Furthermore, such information would be subject to independent financial appraisal.

7. This broadly accords with the National Planning Policy Framework (the Framework) which at paragraph 34 states that development plans should set out the level and type of affordable housing provision required and at paragraph 57 indicates that it is up to the applicant to demonstrate whether particular circumstances justify the need for viability assessment at the application stage. Moreover, the proposal constitutes major residential development as defined in the Framework, whereby paragraph 64 stipulates that, subject to specific exemptions, at least 10% of the homes should be available for affordable home ownership as part of the overall affordable housing contribution from the site.

8. The appellants have submitted a development appraisal calculation dated 23 August 2019 which indicates the appeal proposal would result in a deficit of £2,123,153, and on that basis, no affordable housing provision is proposed. This calculation is significantly at odds with the recent findings of the Inspector, who, in relation to the outline proposal for 33 flats with underground parking before her, considered that there would be a substantial surplus somewhere between the figures of around £940,000 and £1.47 million[4]. Given the similarities between the previous and current outline proposal regarding the number and nature of units, the short time that has elapsed in the meantime and the level of detail and scrutiny given to the viability information at the previous appeal, the Inspector's findings are of significant weight and relevance to the proposal before me.

9. Even taking account of the reduction in floorspace and changes to the illustrative elevations, there is little explanation as to why the figures used in the more recent development appraisal calculation differ from the appeal findings so dramatically.

[3] Reference 18/1988/PDR November 2018
[4] Paragraph 36 of appeal decision APP/P1940/W/18/3214903.

10. The Council have provided an updated viability report[5] dated September 2019 which was undertaken by the same firm of viability assessors who considered the viability information at the application stage, and in relation to the previous appeal. This sets out an appraisal calculation suggesting that the appeal proposal would generate a surplus of £1,537,437. The main areas of dispute between the respective calculations of the parties relate to the sales values, the Benchmark Land Value (BLV), the Community Infrastructure Levy (CIL) and in relation to the build costs for the proposed scheme.

11. The evidence provided by the Council's updated viability report is more reflective of the revised floorspace of 3620sqm in relation to the average sales values. I also have no basis to dispute the CIL figure for the development given by the Council, which is considerably lower than that used by the appellants in their calculation. In relation to the BLV, I have given weight to the findings of the previous Inspector and concur that it remains reasonable to consider that the build costs would be between that of the Council and the appellants in relation to the Alternative Use Value from the granting of the prior approval for the 30 flats. This is reflected in the appellants' calculation where the land payment figure of £5,636,636 is used.

12. However, the most significant difference between the parties is in relation to the build cost figures used. The appellants consider these to be in excess of £13 million[6] whereas the Council suggest a figure closer to £10.5 million[7]. Planning Practice Guidance (PPG) indicates that the assessment of build costs should be based on appropriate data, for example that of the Building Cost Information Service (BCIS)[8]. It further advises that account should be taken of abnormal costs and site-specific infrastructure costs.

13. The Council's figure is based on BCIS figures for flatted development in Three Rivers District and makes allowances for demolition, basement car parking, ground source heat pumps, triple glazing, gym/swimming pool and a green wall and as such, in relation to costs accords with the PPG guidance.

14. The appellant considers that there would be significant costs[9] arising from the proposal such that the BCIS figures relating to standard building costs would be inappropriate. However, this is not fully substantiated with evidence and therefore, falls short of the robust financial appraisal referred to in the SPD[10].

15. Whilst a number of quotations have been submitted by the appellants, their specific relevance and significance to the cost estimate provided by WT Partnership dated 1 August 2019 for the outline proposal is not fully explained. Neither is it clearly shown what has changed in terms of site circumstances or assumptions made about likely costs since the previous appeal and development appraisal calculation undertaken by the appellants[11] such that greater weight should be given to the cost estimate provided by WT

[5] Adams Integra
[6] £11,954,239 build costs + Abnormals (£107,000 Green wall and £1,291,798 Additional costs) HCA Development Appraisal Tool dated 23.8.19
[7] £10,679,661 Page 9 Updated Viability Report Adams Integra September 2019
[8] Paragraph 012 Reference ID:10-012-20180724 Revision date 24.07.2018
[9] Paragraph 1.17, Appellant's final comments dated 27.9.19
[10] Section 6.4 Affordable Housing Supplementary Planning Document, June 2011
[11] Appendix 3 Council's statement, HCA development appraisal tool dated 14.11.18 by s106 Affordable Housing Ltd showing £1,164,628 surplus as of 14.11.18.

Partnership. Therefore, based on the limited information provided, I am not assured that the cost estimate given amounts to appropriate data upon which to assess build costs as referred to in the PPG.

16. Accordingly, on the balance of evidence put before me, it appears likely that the appeal development would be able to support at least some form of affordable housing provision. On this basis, I find that the proposed development, which proposes no such provision, would conflict with advice in the Framework and policy CP4 of the CS which seeks to increase the provision of affordable housing.

Other matters

17. The appeal site is located within the Green Belt. It is agreed by the parties[12] that, based upon the footprint and volume shown in the layout and indicative plans, the proposal would fall within the exception to new buildings in the Green Belt set out in paragraph 145(g) of the Framework. On that basis, it would not constitute inappropriate development in the Green Belt, and I find no reason to disagree.

18. The appellants' highlight that they bring forward affordable housing land for development in association with Housing Associations elsewhere and outline the benefits resulting from the provision of 33 residential units including the redevelopment of previously developed land, with good accessibility and using sustainable construction methods. Be that as it may, these factors do not amount to justification to determine the proposal other than in accordance with the development plan and Framework in relation to the provision of affordable housing.

Conclusion

19. For the reasons set out above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

[12] Paragraph 7.2.11 Council's committee report, Appendix 1 Council's Statement of Case.