
Appeal Decision

Site visit made on 17 September 2019 by Scott Britnell MSc FdA

Decision by R C Kirby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2019

Appeal Ref: APP/P1940/W/19/3230630

2 Hornhill Road, Maple Cross, WD3 9TF

- 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 and Mrs Parslow against the decision of Three Rivers District Council.
 - The application Ref 18/2341/FUL, dated 22 November 2018, was refused by notice dated 8 February 2019.
 - The development proposed is conversion of one x 4 bed dwelling to 1 x 3 bed and 1 x 1 bed dwelling.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. It is clear that the Council consider the proposal to be acceptable in all aspects other than it would not contribute to the provision of Affordable Housing.
4. The main issue in this case is whether the contributions sought in respect of affordable housing are reasonable and necessary.

Reasons for the Recommendation

5. The appeal site comprises a 4 bedroom semi-detached property located at the junction of Hornhill Road and Longcroft Road, with the latter sloping up away from the site. The dwelling benefits from a part single, part two storey side extension consisting of a garage with ensuite bedroom above. The surrounding area is predominantly residential in character with a mix of semi-detached and terraced properties in brick and render finishes. On the opposite junction of Hornhill Road and Longcroft Road is a Community Centre. Due to its corner location, the topography of the area and a small adjacent green space the appeal site occupies a prominent position within the street scene.
6. The proposal would subdivide the property, converting the extension into a one bedroom house consisting of living room, kitchen and utility room on the ground floor with a bedroom and shower room above. The main property would be converted into a three bedroom dwelling. A small garden to the front

- of the one bedroom dwelling would incorporate a parking space. The remainder of the front garden would be retained by the three bedroom dwelling and this would contain two parking spaces. The rear garden would be divided so that both dwellings would have private garden areas. External changes would be made to the extension but there would be no increase in floor space.
7. Policy CP4 of the Core Strategy (2011) (CS) expects development resulting in a net gain of one or more dwellings to contribute to the provision of affordable housing. In relation to sites delivering between one and nine dwellings, the Council will consider the use of commuted payments towards such provision off site. This is calculated with the guidance in the Affordable Housing Supplementary Planning Document (2011) (SPD). In relation to the appeal proposal the Council suggests that this figure would be £41,800.
 8. The appellants have not provided any mechanism to secure the off-site contribution. It is understood that a Section 106 Agreement was submitted to the Council with the application but that this was solely with the purpose of satisfying the Council's validation requirements. I have not been provided with a copy of that agreement. I have also not seen any evidence that such a contribution would render the proposed development unviable. Consequently, the proposal would, on the face of it, conflict with the requirements of Policy CP4 of the CS and the advice contained within the SPD.
 9. However, both Policy CP4 of the CS and the SPD predate the Written Ministerial Statement from November 2014 (WMS), which states that financial contributions towards affordable housing should not be sought on sites of 10 units or less. They also predate the most up to date version of the National Planning Policy Framework (the Framework), which at Paragraph 63 states that the provision of affordable housing should not be sought for residential developments that are not major development, unless in designated rural areas.
 10. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.¹ The WMS and Framework are material considerations which I must therefore take into account in the consideration of this appeal. In respect of development plan policies that pre-date the Framework, Paragraph 213 states that due weight should be given to them according to their degree of consistency with the Framework.
 11. The proposal is not a major development as defined by the Framework and the Council has not suggested that it is within a designated rural area. As such, to seek a contribution towards affordable housing would be in conflict with the policy set out at Paragraph 63 of the Framework.
 12. However, the Council's Needs Analysis dated July 2018, 'Evidence for Re-instating the Affordable Housing Threshold in Core Strategy Policy CP4: Affordable Housing' (AHT) indicates that there is a very high need for affordable housing in the district. The report states that the lowest quartile house price in Three Rivers as of September 2017 made it the sixth worst expensive authority in England and Wales, excluding London, with the fifth

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990.

worst median affordability ratio. It sets out the local circumstances indicating the shortfall in affordable housing provision and the nature of the development proposals within the district show that it is particularly reliant on small sites, such as the appeal proposal to contribute to affordable housing.

13. I consider that the AHT provides recent evidence that underpins the approach in Policy CP4 as an exception to national policy. On this basis, I consider that the specific local circumstances are such that they outweigh the WMS and Framework in respect of the provision of affordable housing. This finding is consistent with other Inspectors², who have considered this issue in relation to appeals on similar sites.
14. The appellants submit that the AHT does not refer to conversions as a separate category to new build. Such a distinction is made, however, within the SPD which supports Policy CS4. It is also argued that the appeal site is brownfield land and that the Framework establishes the principle that there should be no affordable housing requirement if a proposal on a brownfield site results in no net new floor space. Paragraph 63 of the Framework is clear that "to support the re-use of brownfield land, where vacant buildings are being re-used or redeveloped (my emphasis) any affordable housing contribution due should be reduced by a proportionate amount." In this case, the host property is not vacant and therefore the brownfield provision within Paragraph 63 is not relevant.
15. The appellants refer to a number of Local Plans produced by other Councils, arguing that these provide a more sophisticated approach to affordable housing requirement than the Three Rivers authority. These relate to different authorities wherein each will have their own specific and contextualised issues around the provision of affordable housing. As such, I do not consider that comparing these policies to the Three Rivers approach is particularly helpful. In any event, each case has to be assessed on its own merits.
16. I note the appellants' concern about the contribution sought by the Council to affordable housing. Policy CP4 clearly states that in assessing affordable housing requirements that the Council will treat each case on its merits, taking into account site circumstances and financial viability.
17. In this case, no substantive evidence has been put forward to demonstrate that the proposal would be unviable if the required contribution is made. In the event that the 3 bedroom part of the proposal needs to be sold to finance the requested financial contribution, it is likely that a legal agreement could be worded to take this into account.
18. Moreover, the personal circumstances put forward by the appellants, including their desire to move to a smaller property in the area do not appear to be specific to the circumstances of the site, nor are they exceptional, such that they would amount to matters which would justify a nil contribution to affordable housing provision under CS Policy CP4. A personal condition restricting the occupancy of the 1 bedroom unit would not overcome the conflict with the development plan in this regard. I acknowledge that the 1

² APP/V5570/W/16/3164313, APP/V5570/W/17/3174582, APP/V5570/W/3177927, APP/P1940/W/18/3213370, APP/P1940/W/19/3219890, APP/P1940/W/19/3222318, APP/P1940/W/19/3225325, APP/P1940/W/3221363, APP/P1940/W/19/3225445

bedroom unit would be likely to be attractive to older persons or first time buyers, however, there is no mechanism provided that would guarantee the property would be occupied by such persons. Further, while I acknowledge that the provision of an additional dwelling would add to market choice, I afford this argument only limited weight given the scale of the proposal.

19. I find that the matters advanced by the appellants do not therefore justify a development where no contribution to affordable housing provision is provided. In conclusion, the proposal in failing to make appropriate provision for affordable housing is in conflict with Policy CP4 of the CS and the Affordable Housing SPD. This would result in harm being caused to the Council's ability to address the worsening lack of affordable housing across the Three Rivers District. Moreover, while the proposal would cause no harm in respect of any other relevant matter, this does not outweigh the harm identified. It is argued that the obligation required by the Council fails to meet the tests for when a Section 106 Agreement is appropriate. However, given my findings above I do not agree.

Other Matters

20. There is no dispute that the Council cannot demonstrate a five-year supply of deliverable housing sites. In this case, it is acknowledged that the proposal would make a contribution, albeit small to the supply of housing in the area and the development is acceptable in all other respects apart from the contribution towards affordable housing. However, given the high need for affordable housing in the area, I conclude that the adverse impacts of granting planning permission by failing to contribute to affordable housing, significantly and demonstrably outweighs the benefits when assessed against the policies in the Framework as a whole. The material considerations advanced in this case do not indicate that the appeal should be determined other than in accordance with the development plan.

Conclusion and Recommendation

21. For the reasons given above, I recommend that the appeal should be dismissed.

Scott Britnell

APPEAL PLANNING OFFICER

Inspector's Decision

22. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal dismissed.

RC Kirby

INSPECTOR