
Appeal Decision

Site visit made on 26 May 2020

by Edwin Maund BA (Hons) MSc Dip UP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th June 2020

Appeal Ref: APP/M2515/W/20/3245208

18/20 Kingsway, Lincoln, Lincolnshire LN5 8EU

- 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 David Irons against the decision of Lincoln City Council.
 - The application Ref 2019/0007/FUL, dated 5 January 2019, was refused by notice dated 11 October 2019.
 - The development proposed is erection of 6 no. two bedroom dwellinghouses and a 3-storey building to provide 8 no. two bedroom apartments and 4 no. one bedroom apartments. Associated external works including provision of 18 no. car parking spaces.
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Decision

1. The appeal is dismissed.

Preliminary Issue

2. The description in the banner heading above is taken from the decision notice not from the original application form. This description is more precise, and I do not consider any of the parties would be prejudiced in determining the appeal using this description.

Main Issues

3. The main issues in this case are:
 - Whether the proposal would or would not accord with relevant local or national policy in respect of affordable housing considering the viability of the proposal; and
 - Whether the proposal makes adequate provision for off street car parking.

Reasons

Affordable housing

4. Kingsway is a mixed commercial and residential street to the south of Lincoln city centre. The appeal site is currently in commercial use with a variety of buildings occupying the site. It is well located relative to the town centre with good access to all the facilities the city has to offer. There is no dispute between the main parties about the principle of redeveloping this site for residential purposes.

5. The Central Lincoln Local Plan (LP) policy LP11 requires the provision of affordable housing as the site would deliver in excess of 11 dwellings, this is broadly in line with the requirements of the National Planning Policy Framework (the Framework) and I consider should be given significant weight. This is further supported in the Central Lincolnshire Developer Contributions Supplementary Planning Document (SPD). The main parties do not dispute that this guidance applies.
6. Paragraph 64 of the National Planning Policy Framework (the Framework) also expects that on major developments planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership. Certain exceptions apply, but none of these are pertinent in this case.
7. The Framework explains further that where up to date policies apply it is for the applicant to justify the need for a viability assessment at the application stage, the weight to then be afforded to that assessment is for the decision maker. Evidence has not been presented which explains how the need for the appraisal was justified to the council at the application stage, nevertheless one was submitted and accepted.
8. In submitting the application, a viability appraisal was provided on behalf of the applicant which states:

"We are therefore of the opinion that inclusion of any Section 106 costs or CIL payment at all, will make this development unviable and means that it will not be brought forward for development. Even if no Section 106 costs are imposed on this site, profit levels are still well below what we would expect to see for a development of this nature, which should be around 20% of the GDV."

The profit figure specified at 11.34% of development cost would also need to be further reduced once CIL contributions were taken into account as these payments are non-negotiable.

9. The Council undertook an independent assessment of this appraisal and agreed with its findings, that the scheme would not be viable in the event that the contributions to meet the policy were imposed. I don't doubt from the evidence presented by the appellant and from the assessment by the Council that the scheme is on the margins of viability, and may not actually go ahead even if the scheme made no contributions towards CIL, the other infrastructure identified as necessary in the LP or affordable housing.
10. Ultimately this would be a commercial decision, but in deciding to go ahead with a lower profit margin, this must to a certain extent bring into question some of the assumptions the viability assessment relies upon and therefore the suitability of the viability appraisal in these circumstances.
11. The SPD also provides guidance to applicants where there is a large viability gap. Advising, that the appraisal should be accompanied by an explanation how the scheme would actually be delivered in such circumstances. This element is missing, with no evidence provided to demonstrate how the scheme could be brought forward. The appellant's own analysis confirms this development would not meet what might be regarded as an appropriate profit margin, and the scheme would not be brought forward if any Section 106 or CIL payment was required.

12. In these circumstances, I consider the scheme in neither delivering on any contribution towards affordable housing or demonstrating how the scheme could actually be delivered is in conflict with policies LP1 and LP11 which amongst other things aim to deliver development which is sustainable and can contribute towards the provision of affordable housing which a new development of this scale necessitates.

On site car parking

13. The proposal incorporates 18 parking spaces, the equivalent of 1 space per dwelling. The site is located within an area of the city where the council do not require on-site parking to be provided and the Highway Authority have raised no concerns in respect of the proposal.
14. The Council consider the proposed development would increase the demand for on street parking and this would lead to competition in the local area adversely affecting living conditions of existing residents. This could be further exacerbated by the proximity of the site to Lincoln City football ground and crowds arriving on match days.
15. The appeal site is located within walking distance of a range of shops and services which would be likely to reduce the reliance on the private car and consequently reduce the need for street parking spaces.
16. At the time of my visit I could see there was limited space available to park cars on the street. I acknowledge this is only a snapshot in time and recognise being on a street serving a school there may well be additional pressure at particular times of the day. However, taking into account the accessibility of the site to local services and facilities, the provision of 18 parking places on site which exceeds the council standard and the range of transport modes available in close proximity, the scheme does not conflict with policy LP26 of the LP which encourages good design and respect for the amenity of residents.

Other Matters

17. The appellant has questioned if a five year supply of housing is in place. The Council have confirmed this to be the case and I have no evidence to the contrary as such I can give this argument little weight in coming to my conclusion. If allowed the scheme would add to the supply of homes within the area and being 18 units, this a contribution that I afford moderate weight.
18. That Members considered the scheme and came to a different conclusion from the council officers is not unreasonable when considering the balance to be struck in this case when assessing the competing benefits versus harm that would arise. The concerns as to how the application was debated at committee and the discussion that took place is not before me.
19. Local residents also raised concerns about potential adverse effects from construction both on living conditions and the neighbouring allotments. As I am dismissing the appeal for other reasons, these concerns do not need to be addressed further.

Conclusion

20. While I do not find the scheme would be in conflict with policy LP26, the potential benefits which could come from the scheme in the provision of 18

dwelling, does not outweigh the harm in terms of conflict with policies LP1 and LP11. For this reason, I conclude the appeal should be dismissed.

Edwin Maund

INSPECTOR