The Planning Inspectorate

Appeal Decision

Site visit made on 12 January 2021

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2021

Appeal Ref: APP/L5810/W/20/3258093
Old Kings Head, Hampton Court Road, Hampton Wick KT1 4AE

- 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 A Jason against the decision of the Council of the London Borough of Richmond-upon-Thames.
- The application Ref 19/0357/FUL, dated 29 January 2019, was refused by notice dated 25 February 2020.
- The development proposed is French doors with balconies/creation of roof terrace on first floor western and southern elevation, installation of 2 no. conservation-style rooflights southern and western roof slopes to facilitate the conversion of public house with staff accommodation into 1 x commercial unit in A2 use and 4 no. 2 bed flats, new access gates, associated refuse store and cycle storage.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development changed during the determination of the planning application to which this appeal relates. The banner heading above reflects this, in the interests of accuracy.

3. The appeal site is located within the designated Metropolitan Open Land (MOL). The supporting text to Policy LP13 of the London Borough of Richmond Upon Thames Local Plan July 2018 (the Local Plan) states that the policy on Greenbelt set out in the National Planning Policy Framework (the Framework) applies equally to MOL.

4. The submitted evidence demonstrates that the appeal proposal would result in the extension or alteration of a building that would not result in disproportionate additions over and above the size of the original building. The appeal proposal would constitute exception (c) of paragraph 145 of the Framework and thus is not inappropriate development. The appeal proposal would not conflict with Policy LP13 of the Local Plan. There is no dispute between any parties in this regard. The appeal is determined on that basis.

Main Issues

5. Consequently, the main issues are whether or not the appeal proposal would:

   - result in the unjustified loss of social and community infrastructure in the area;

- contribute to the area's identified priority housing needs, with particular regard to housing mix; and
- represent sustainable construction, with particular regard to reducing Carbon Dioxide emissions and securing energy and water efficiency.

Reasons

Social and community infrastructure

6. The appeal site is located within a mixed use area. There are a range of other food and drink uses within the vicinity of the site which contribute to the area's social and community infrastructure.

7. The appeal scheme would result in the use of the ground floor of the appeal site for commercial purposes with 4 independent units of living accommodation above. The proposed uses would not be inconsistent with the surrounding mix of uses.

8. However, the proposed ground floor use would fall beyond the scope of social and community infrastructure assumed by Policy LP28 of the Local Plan. It would result in the loss of a ground floor use which would form part of the area's community and social infrastructure.

9. The submitted evidence advances that the appeal property has been the subject of various attempts to secure the continued use of the site over a long period of time. Site specific constraints that it is claimed would limit the continuation of the pub use, particularly given current social distancing requirements, have been advanced.

10. However, it has not been adequately demonstrated that the potential for all alternative uses that would sustain the area's community and social infrastructure have been exhausted through marketing activity that accords with that set out in Appendix 5 of the Local Plan.

11. The absence of any objections to the appeal proposal and the existence of other pubs in the area would not adequately substantiate that the site would be incapable of contributing to area's social and community infrastructure.

12. For these reasons, the appeal proposal would result in an unjustified reduction in the area's social and community infrastructure.

13. Policy LP27 of the Local Plan states that the loss of public houses will be resisted. Before accepting any such loss, satisfactory evidence of 'full and proper' marketing in line with Appendix 5 of that plan is required.

14. Policy LP28 of the Local Plan states that the loss of social and community infrastructure will be resisted. Where the change of use away from such uses has been justified through evidence that fulfils the scope set out in Appendix 5 of that plan, redevelopment for other employment generating uses or affordable housing should be considered.

15. In the absence of such 'full and proper' marketing evidence, it has not been demonstrated that the appeal proposal would accord with these policies. These conflicts would weigh against the appeal proposal.

Housing needs

16. The upper floors of the appeal building comprise staff living accommodation. The appeal site is located within a defined Area of Multiple Use (AMU). The appeal proposal would align with the mixed use character of this area.

17. Nonetheless, Policy LP35 of the Local Plan expects a higher proportion of smaller studio and one bedroomed units to be provide in such locations, the need for which is evidenced through the Council's Strategic Housing Market Assessment (SHMA).

18. The appeal proposal would result in the provision of 2 bedroomed flats. These would not contribute to the identified priority housing needs for the area.

19. The appeal proposal would contribute to the overall housing stock in the area. Although a shortfall in housing delivery has not been advanced, this contribution would nonetheless weigh in favour of the proposal.

20. No substantive evidence has been provided to justify the provision of the larger units in the context of those priority housing needs. Neither has such evidence been submitted that would demonstrate that the provision of a viable scheme comprising single bedroomed units could not be achieved unless incurring harm.

21. For these reasons, it has not been demonstrated that the appeal proposal would contribute to the area's identified priority housing needs, with particular regard to housing mix.

22. Policy LP35 of the Local Plan states that within AMUs a higher proportion of small units would be appropriate. The housing mix should be appropriate to the site-specifics of the location. The supporting text states that there are an increasing proportion of one person households and on appropriate sites an element of small units (1 bedroom or studios) will also be required.

23. The appeal proposal would not accord with this policy. Nonetheless, it would still contribute to the overall supply of smaller 2 bedroom units within the area. This would reduce the weight to be afforded to this conflict.

Sustainability

24. Evidence has been submitted that would adequately demonstrate that the appeal proposal would meet 'excellent' BREEAM standards. However, the appeal submission does not adequately demonstrate sustainable construction including reduction in Carbon Dioxide emissions (CO2), energy and water efficiency.

25. Whether or not this issue had been drawn to the appellant's attention during the determination period is not a matter for this appeal. Moreover, these shortcomings were clearly stated in the reasons for refusal cited in the Council's decision notice and have not been adequately addressed.

26. It would not be possible for this matter to be addressed through this appeal by the imposition of a planning condition that would meet the prescribed tests for conditions. This is because the evidence does not provide me with sufficient certainty that all of the necessary requirements in these regards could be met.

27. For these reasons, it has not been demonstrated that the appeal proposal would represent sustainable construction, with particular regard to reducing CO2 and securing energy and water efficiency.

28. Policy LP1 of the Local Plan requires sustainable design and construction. Policy LP22 of that plan requires that developments achieve the highest standards of sustainable design and construction. For all development that results in new residential units, including conversions that create one or more new dwellings, a 35% reduction in CO2 emissions over Building Regulations and measures to meet the National Water Standards should be demonstrated and an energy statement and a Sustainable Construction Checklist provided.

29. For the reasons given, the appeal proposal does not demonstrate accordance with this policy. This conflict would weigh against the appeal proposal.

Other Matters

30. The Council has confirmed that the submitted biodiversity evidence would overcome their fourth reason for refusal, subject to the imposition of planning conditions. There is no evidence that would lead me to a different conclusion. Those conditions would be necessary and would meet the prescribed tests. The appeal proposal would accord with Policy LP15 of the Local Plan in this regard.

31. The appeal proposal is identified as a Building of Townscape Merit (BTM). The reuse of this BTM would weigh in favour of the appeal proposal.

32. The appeal site is situated prominently within the Hampton Wick Conservation Area. It also falls within the settings of the nearby Grade II Listed Home Park House, Grade I Listed Home Park and the Grade II listed boundary wall that runs east along Hampton Court Road, turning south at Home Park House.

33. The significance of all of these heritage assets is historical, cultural and architectural and relates to the nearby Hampton Court Palace and parks.

34. Overall, the proposed change of use and associated external alterations would be discreet and sympathetic to the important character and appearance of the host building. The appeal proposal would not interrupt or change any views of significance associated with any of these heritage assets.

35. Consequently, no harm would be transposed to the Conservation Area or to the settings of the nearby listed building, boundary wall and park. Neither would there be any harm to archaeological interests of the area given the nature of the proposed development. There would be no conflict with the Framework in these regards.

36. Policy LP1 of the Local Plan states that the high quality character and heritage of the borough will be maintained. Policy LP3 requires development to conserve and where possible take opportunities to make a positive contribution to the historic environment. The significance of designated heritage assets will be conserved and enhanced. All proposals in Conservation Areas are required to preserve and, where possible enhance the character and appearance of the Conservation Area. Policy LP4 seeks to preserve, and where possible enhance the significance, character and setting of BTMs.

37. In the absence of any harm, there would be no policy conflicts in this regard.

38. The appeal proposal would incur no harm to the Conservation Area and settings of the nearby Listed heritage assets and as such would preserve their character and appearance.

Conclusion

39. No harm has been identified in respect to the MOL or the significance of the designated heritage assets that relate to the context of this site. As the status quo would be maintained, these matters would weigh neutrally in the planning balance.

40. The appeal proposal would secure the reuse of a BTM. It would also make a small contribution to the overall housing stock in the area. These matters would weigh moderately in favour of the appeal proposal.

41. Nonetheless, the proposed reduction in the area's social and community infrastructure and the provision of residential units which would not meet the identified priority housing needs for the area have not been adequately justified. Furthermore, it has not been adequately demonstrated that the appeal proposal would deliver sustainable construction. Consequently, these matters would give rise to significant policy conflicts.

42. The matters weighing in favour of the appeal proposal would not out-weigh the conflicts with the development plan when taken as a whole.

43. For the reasons given, the appeal should be dismissed.

C Dillon

INSPECTOR