



Appeal Decision

Site Visit made on 8 November 2021

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 December 2021

Appeal Ref: APP/E0345/W/21/3277248

The Faculty, 23-27 London Road, Reading RG1 5BJ

- 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 The Faculty Ltd against the decision of Reading Borough Council.
 - The application Ref 201221, dated 26 August 2020, was refused by notice dated 2 March 2021.
 - The development proposed is the change of use of The Faculty from 16 serviced apartments (Use Class C1) to 15 residential flats (Use Class C3).
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of The Faculty from 16 serviced apartments (Use Class C1) to 15 residential flats (Use Class C3) at The Faculty, 23-27 London Road, Reading RG1 5BJ in accordance with the terms of the application, Ref 201221, dated 26 August 2020, and subject to the following conditions in the attached schedule.

Application for costs

2. An application for costs has been made by Reading Borough Council against The Faculty Ltd. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was refused for four reasons. The Council has confirmed in its appeal statement, following the further information on parking provision and cycle storage, that this matter could be addressed by conditions in any approval and it does not wish to maintain the fourth reason for refusal. I have found no reason to disagree with the Council on this matter.

Main Issues

4. The main issues are whether or not:
 - a contribution is necessary to provide affordable housing in the area,
 - the scheme would provide a satisfactory mix of unit sizes, and
 - the internal layout and overall space within Flats 13, 15 and 16 would provide adequate living conditions for future occupants.

Reasons

5. The Faculty is a four storey building, including accommodation in the roof, which is used as an apart-hotel. It consists of 16 serviced apartments with a courtyard parking area. The building was originally permitted in 2000 as a new

build development of residential flats. In 2009, an application was approved for the existing building to be used as serviced apartments. A subsequent approval allowed the reconfiguration of the ground floor to provide an additional studio flat. The present proposal seeks to change the use of the building back to residential flats and reconfigure the ground floor to incorporate the studio flat into the adjoining unit. Effectively the use and layout would revert to a flatted development on along the lines of the scheme approved in 2000, although that layout provided 3 No 3 bedroom flats.

6. Policy H3 of the Reading Borough Local Plan (2019) (the Local Plan) sets out the policy requirements for the provision of affordable housing in development schemes. The policy explains that for a proposal of 10 or more dwellings, 30% of the total dwellings will be in the form of affordable housing. In those cases which would fall short of the policy target as a result of viability considerations, an open book approach will be undertaken and the onus will be on the developer/landowner to clearly demonstrate the circumstances justifying a lower affordable housing contribution.
7. Notwithstanding the history of the site, as 15 new residential flats would be provided from a building used within a different use, I am satisfied that Policy H3 of the Local Plan applies and that there is a need to provide the required affordable housing contribution unless viability demonstrates otherwise. The Reading Borough Council Affordable Housing Supplementary Planning Document (adopted March 2021)¹ provides background to the provision of affordable housing and the approach to viability assessments. I attribute this document substantial weight. I have also had regard to the advice in the Planning Practice Guidance, especially the sections on viability and decision taking.
8. At the appeal stage, the appellant has submitted a detailed Viability Assessment from an appropriately qualified practitioner. The Assessment is comprehensive and I attach this information substantial weight. After calculating the Benchmark Land Value of the site, even taking into account a sensitivity analysis for the effects of the covid pandemic, the Assessment leads to the clear conclusion that a scheme which sought an affordable housing contribution would not be viable. The existing development is a modern building provided to a high standard, in an accessible location with on-site car parking and with a lease that sets a return on the present investment. I can therefore understand why the Benchmark Land Value has been found to be at a relatively high level and this effectively precludes the provision of an affordable housing contribution.
9. The Council has engaged consultants at the appeal stage to examine this Assessment. The Council has not sought to introduce substantial further evidence at the appeal stage to comply with the Procedural Guidance². I note that the comment in the Council's appeal statement that the scheme's viability is particularly limited by the Benchmark Land Value of the site, taking into account the existing lease. Nevertheless, following the Council's consultants involvement an agreement was reached between the main parties for a contribution of £25,000 to be made by the appellant towards affordable housing, subject to the Council withdrawing all the reasons for refusal.

¹ The Affordable Housing Supplementary Planning Document 2013 was extant at the time of the decision and referenced in the first reason for refusal.

² Procedural Guide: Planning appeals – England

Ultimately, a planning agreement was not signed to provide this contribution. These discussions were without prejudice to the case made by both parties. While I have had regard to this background, I have little substantive information which demonstrates the requirement for such a payment when considering the analysis and conclusions of the Viability Assessment.

10. Drawing these matters together, the findings of the appellant's Viability Assessment is clear and no detailed and persuasive criticism has been made of any substantive element of the Assessment to cast material doubt on its findings. I therefore conclude that the appellant has discharged the policy duty to demonstrate the circumstances which justify that no affordable housing contribution should be made.
11. Accordingly, I conclude, for the reasons explained above, the case has been demonstrated why a contribution is not necessary to provide affordable housing and thereby the scheme would accord with Policy H3 of the Local Plan which sets out the approach to affordable housing across the plan area.

Housing mix

12. At my site visit I visited Flat 16 and saw all the rooms in this unit, including the smaller second bedroom. This room accommodated a single bed and I am satisfied that there is also room for some furniture and circulation space. I therefore consider that Flat 16 can be considered a two bedroom flat. The scheme would, therefore, provide 10 No one bedroom flats and 5 No 2 bedroom flats.
13. Policy CR6 of the Local Plan establishes the approach for residential development in Central Reading, in which the appeal site is located. This policy, as a guide, requires that residential development contributes to a mix of different sized units with including a maximum of 40% one bedroom units, unless it can be clearly demonstrated that this would render a development unviable.
14. In this case, the scheme is not a new build or a conversion where there is readily a scope for the provision or reconfiguration of the floorspace to provide a new layout with a different mix of bedroomed units. The scheme combines a studio and a one bedroom flat on the ground floor to provide a 2 bedroom unit and in the other cases the units are already laid out and operational with each unit having a kitchen/lounge area, bathroom(s) and bedroom(s). The scheme with the proposed number of units has already been shown to be unviable to deliver affordable housing and seeking to alter the layout with the movement of some walls, doorways and provision of combined units would add cost, reduce the number of units on the site and, it seems to me based on the information available, render the scheme unviable.
15. Furthermore, the policy states that *ideally* (my emphasis added) there should be a mix of one, two and three bed units. In this case, while it may be ideal, it would not be reasonable given the existing layout which, with the exception on the ground floor, is not intended to or could easily be changed. The Council accept that the provision of three bedroom units is not required to be sought and the mix of one and two bedroom units, based on the existing and largely unchanged layout, would provide a reasonable mix of accommodation in a sustainable location close to the town centre.

16. In summary, Policy CR6 of the Local Plan allows for some flexibility in the mix of the units in schemes and for the viability of a scheme to be taken into account. In the circumstances of this case, I conclude that the scheme would provide a satisfactory mix of unit sizes. Accordingly, the development would comply with Policy CR6 and H2 of the Local Plan which seek amongst other things, to provide an appropriate density of residential development having regard to the need to maximise the efficiency of land.

Living conditions

17. The Council is concerned with the internal layout and overall space within Flats 13, 15 and 16 and identifies conflict with two development plan policies, CC8 and H5 of the Local Plan. Policy CC8 lists amenity issues which are to be examined and met by development. However, space standards for the units is not one of the amenity issues that is referenced. In these circumstances, I am not persuaded by the evidence that the policy would be breached in this respect.
18. In the case of Policy H5 of the Local Plan, this concerns new build housing. The appeal scheme is predominantly the change of use of a building and not new build housing. In any case, criterion (a) of the policy says that it is only (new build) housing outside the Central Area which is required to comply with the nationally-described space standards and the appeal site is within this Central Area. Indeed, the Planning Report confirms that Policy H5 of the Local Plan is not applicable to the appeal development and therefore for these reasons the proposal would not conflict with this policy.
19. Nevertheless, paragraph 4.4.42 of the Local Plan explains that, even where the space standards do not apply, they provide a useful point of reference and the Framework requires that all development creates places with a high standard of amenity for existing and future users. Furthermore, while not referenced in the reason for refusal, attention has been drawn to Policy H8 of the Local Plan which requires residential conversions should provide adequate internal floorspace and headroom for residents.
20. At my site visit I was able to enter a number of the units, including Flats 13, 15 and 16. I consider that the size and circulation space of these units are not unduly affected by being located in the roof space. This is because the angle of outside walls are quite steep and it is only about the upper half of the walls in these flats that are sloping. Accordingly, the headroom available is not especially an issue that materially affects the living conditions for occupants, either at the present time or in the future if the flats were to be used as permanent accommodation.
21. The flats are well laid out with good natural light. They have adequate space for a combined lounge, dining and kitchen area and each unit has a separate and reasonably sizeable bathroom in each case. The bedrooms for the two one-bedroom flats provided a decent sized double room with space for furniture. Flat 16 has a good sized double bedroom and a small single. As I have commented above, while this second bedroom is small, it is adequate to operate as a bedroom and provides, in conjunction with the rest of the flat, a satisfactory standard of accommodation.
22. These three units may fall below the space standards but having undertaken an internal viewing and considered all the evidence, I am satisfied that they would

provide acceptable living conditions for permanent occupation within a Central Reading location. I note the commentary in paragraph 4.4.41 of the Local Plan which explains that the expectations of those choosing to live in the centre of Reading, in terms of both internal and external space, as well as issues such as noise, tend to be different to those in other parts of the Borough. I therefore conclude that the internal layout and overall space within Flats 13, 15 and 16 would provide adequate living conditions on a permanent basis for future occupants. The scheme would not conflict with Policies CC8, H5 and H8 of the Local Plan and the Framework which seek, amongst other things, adequate internal floorspace and headroom for residents.

Conditions

23. I have had regard to the conditions suggested by the Council and the advice in the Planning Practice Guidance. I have amended the wording where necessary in the interests of clarity or to meet the six tests in the Guidance. The statutory time limit is required and a condition specifying the approved plans is necessary in the interests of certainty.
24. A condition is necessary to ensure that the car parking spaces are provided and thereafter maintained in the interests of the amenities of residents and highway safety. A condition is necessary for details to be submitted, approved and then implemented for cycle parking in the interests of providing sustainable transport opportunities.
25. A condition requiring the details of the refuse and recycling store to be agreed and implemented is necessary in the interests of highway safety and the amenities of the area.
26. The Council has recommended two conditions which seek to restrict the ability of residents to apply for on-street car parking permits. However, the policies in justification of this approach, which the Council has brought to my attention, do not directly require such a restriction. Furthermore, the analysis from the appellant's highway consultant explains why the provision of the seven car parking spaces on the site would be adequate to serve the development without displacing car parking elsewhere. With this evidence and the site located within walking distance of the town centre and other local services and facilities, including bus routes, the information before me does not demonstrate a necessity for the recommended conditions regarding parking permits or that without such conditions the development would be contrary to the development plan.
27. Policy CC8 of the Local Plan requires that there should be no unacceptable impact on living conditions for new residential properties in terms of noise and disturbance. The proposal would introduce permanent residential accommodation and some of the flats have their windows facing the busy London Road. I appreciate that windows are triple glazed, nevertheless, without confirmation that they provide sufficient sound proofing, and that if required to be open the internal noise levels would be satisfactory, there is the potential that future permanent occupants could be unduly disturbed by the wider noise environment. A condition is therefore necessary for noise levels to be assessed and appropriate action taken as required.
28. Policy EN15 of the Local Plan seeks to ensure the effects of any poor air quality are mitigated. The site lies close to London Road and details through an Air

Quality Assessment and any mitigation required to address any identified poor air quality is necessary to accord with Policy EN15 of the Local Plan and in the interests of the living conditions of future permanent residents of the development.

29. Policy CC2 of the Local Plan sets out the approach to the sustainable design and construction of new development and includes that conversions to residential are required to meet the most up-to-date BREEAM "excellent" standards, where possible. In this case, however, the development is fairly recently built, and appears to be constructed to a high standard and would not be a conversion but a change of use because of the very limited physical changes to the fabric. In these circumstances, I am not persuaded that the evidence demonstrates that the policy should apply to this scheme and therefore that it is necessary or appropriate to apply the requirements of the BREEAM approach in this case.
30. Conditions regarding the noise and air quality requirements are necessary as pre-commencement conditions because they may require some information and design alterations that are required to be undertaken from the outset and could be impractical to consider at a later stage.

Conclusion

31. For the reasons given above, the scheme would comply with the development plan when considered as a whole and other material considerations do not indicate that a decision should be made other than in accordance with the development plan. Accordingly, and taking all other matters into account, I conclude that subject to the specified conditions, the appeal should be allowed.

David Wyborn

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan P/100, Proposed ground floor P/0005, Proposed 1st floor P/0006, Proposed 2nd floor P/0007 and Proposed 3rd floor P/0008.
- 3) The flats hereby permitted shall not be occupied until all vehicle parking spaces have been provided in accordance with the plans hereby approved. The spaces shall be kept available for parking at all times thereafter.
- 4) Prior to first occupation of the development hereby permitted, a plan showing how 8 cycle parking spaces can satisfactorily be provided on site shall be submitted to and be approved in writing by the Local Planning Authority. The cycle parking spaces shall be provided in full accordance with the approved details prior to first occupation and thereafter kept free of obstruction and retained in accordance with the approved details and shall remain available for the parking of cycles at all times.
- 5) Notwithstanding the approved drawings, the development hereby permitted shall not be occupied until details of refuse and recycling storage sufficient for the intended development has been submitted to and approved in writing by the Local Planning Authority. The details shall include measures to prevent pests and vermin accessing the bin stores. The approved refuse and recycling storage, including pest and vermin control measures, shall be fully implemented before first occupation of the development hereby permitted and the areas of land so provided shall not be used for any purposes other than the storage (prior to disposal) or the collection of refuse and recycling and shall be thereafter retained and maintained as such.
- 6) No development shall commence on site until a detailed scheme, informed by an assessment of the current noise environment, for protecting the dwellings from the external noise environment of the area has been submitted to and approved, in writing, by the Local Planning Authority. The scheme itself shall be designed, specified and constructed so that the sound insulation performance of the structure and the layout of the dwellings are such that the indoor ambient noise levels do not exceed the values detailed in Table 4 of BS 8233:2014 and that the individual noise events do not exceed 45 dB LA,max,F more than 10 times a night. Where opening windows will lead to an internal noise level increase of 5 dBA or greater above BS 8233:2014 recommended internal levels, the scheme shall include provision of alternative mechanical ventilation with minimum performance equivalent to a mechanical heat recovery (MVHR) system with cool air bypass as an alternative means of cooling and ventilation. Noise from the system should not result in BS8233 internal levels being exceeded. Thereafter, the development shall not be carried out other than in accordance with the approved scheme which shall be completed before any part of the accommodation hereby approved is occupied .

- 7) No development shall commence on site until a detailed Air Quality Assessment to determine whether mitigation is required to protect the residents from the effects of poor air quality is submitted to and approved in writing by the Local Planning Authority. Where this Air Quality Assessment identifies that future residents will be exposed to poor air quality, an air quality mitigation scheme shall accompany this assessment demonstrating sufficient mitigation to protect the occupants. The scheme shall be implemented as approved prior to occupation of any part of the development and retained as approved at all times thereafter.

End of Schedule