



Appeal Decision

Site visit made on 8 February 2022

by R E Jones BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2022

Appeal Ref: APP/L5810/W/21/3273318

123 Station Road, Hampton TW12 2AL

- 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 Just Properties (Developments) Limited against the decision of Richmond Upon Thames London Borough Council.
 - The application Ref 20/2697/FUL, dated 28 September 2020, was refused by notice dated 22 March 2021.
 - The development proposed is change of use from clothes ironing service to one bedroom flat.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from clothes ironing service to one bedroom flat at 123 Station Road, Hampton TW12 2AL, in accordance with the terms of the application, Ref 20/2697/FUL, dated 28 September 2020, and subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for Costs was made by Just Properties (Developments) Limited against the London Borough of Richmond Upon Thames. This application is the subject of a separate Decision.

Preliminary Matters

3. A signed and dated unilateral undertaking (UU) agreed between the main parties was provided following the submission of the appeal and my determination has had regard to its contents.

Main Issues

4. The main issues are:
 - the effect of the proposed change of use; and
 - whether the development would make an appropriate contribution to affordable housing.

Reasons

The change of use

5. The appeal property is located within the Hampton Village local centre, where the premises operates as an ironing and dry-cleaning service, within a terrace containing other commercial uses.

6. Local centres, according to Policy LP25 of the Local Plan (2018) (Local Plan) provide a focus for local communities and opportunities to meet, shop, work and spend leisure time. In line with the policy, proposals in local centres should, amongst other things, not adversely impact on their vitality and viability. Appropriate uses are those which primarily serve the needs of the local community.
7. Whilst the thrust of LP25 focuses on retaining a mix of uses within the local centre, the policy's explanatory text does not rule out residential development in local centres. This can, according to the policy, contribute to the overall health of a centre and help the Borough meet its housing targets. This is provided that it does not lead to an unacceptable loss of commercial or community space.
8. The terrace to which the appeal premises relates is categorised as a non-designated frontage by Policy LP26 of the Local Plan as it is not within one of the Local Centre's "Key or Secondary Shopping Frontages" as listed in Appendix 4 of the Local Plan. Criteria E of Policy LP 26 requires that changes of use in a non-designated frontage will be considered favourable providing they are commercial, or community uses compatible with the retail function of the centre. Yet criteria E is only relevant in instances where Policy LP27 does not apply.
9. Policy LP27 indicates that changes of use from premises falling within Use Classes A1 to A5 will not be permitted unless (amongst other things) the unit is within 400m of a designated shopping frontage. The existing use according to the Council is Class A1 or as it is now known Class E¹. Although those use classes no longer exist, the existing use at the premises would be consistent with those functions. Furthermore, having assessed the site's proximity to the designated shopping frontages nearby, I have no reason to disagree with the appellant's assertion of it being within 400m of those frontages. Therefore, as the proposal complies with that aspect of the policy, the requirement for marketing evidence is not triggered².
10. Despite the proposal's compliance with Policy LP27, there is a tension with the broad aims of Policy LP25, which seeks to retain commercial space in local centres and prevent the loss of such units. However, the proposal does not remove any commercial space from one of the local centre's key and secondary shopping frontages nearby (Station Road, Station Approach and Ashley Road), where I saw a good mix and number of retail and service uses. Moreover, the Council has not submitted any detailed or compelling evidence on how the loss of one unit within this non-designated frontage would be unacceptable insofar as it relates to the local centre's vitality and viability.
11. The Council asserts that Policy LP27 is not relevant in this case as it would only be applied if the site was serving a local need and outside of a centre. However, my reading of the policy makes no reference to it only applying in situations where there is a local need, or the site is outside of a local centre. In addition, I have not been directed to the specific sections or criteria in the policy where those stipulations apply. Therefore, and notwithstanding the

¹ Use Class E of the Use Classes Order 1987 (as amended) was introduced on 1st September 2020 and covers the former use classes of A1 (shops), A2 (financial and professional), A3 (restaurants and cafes) as well as parts of D1 (non-residential institutions) and D2 (assembly and leisure).

² Criteria 3 of Policy LP27 of the Local Plan (2018) refers.

Council's, reference to Policy LP26 in its refusal notice, I have considered Policy LP27 to be of greater relevance in the assessment of this case.

12. The development plan policies referred to by the Council do not explicitly indicate that residential development in local centres is unacceptable. Indeed, there is recognition that new housing contributes to the overall health of centres whilst meeting the Borough's housing target. Furthermore, the proposed residential flat would be in close proximity to a range of community facilities and services as well as public transport connections. Therefore, the site's highly accessible location also weighs in the scheme's favour and would align with the locational requirements of the Council's policy for new housing (Policy LP34).
13. I have also found no clear conflict with the Hampton Village Planning Guidance Supplementary Planning Document (SPD), as the proposed residential use would be consistent with its vision of bringing together the different needs of the village as a vibrant, caring community with facilities to meet local needs. Even though the commercial space would be removed, the traditional shopfront at the appeal site would be retained, thus ensuring that the terrace remains visually coherent along its ground floor frontage.
14. The Council has referred to a residential scheme it approved nearby at No 113 Station Road, which, unlike the proposal, retained commercial space at the premises' ground floor. I do not have the full details of that case or the specific policies that were used to assess it. Accordingly, I am unable to view it as a scheme where the Council have been consistent in the way it has applied its policies.
15. On the basis of the above, there would be some minor conflict with Policy LP25 of the Local Plan, in that the proposal would result in the loss of a ground floor commercial unit in Hampton Village local centre. However, I have not found that this would materially harm the centre's vitality and viability, while there is general support for residential uses within centres and sustainable locations close to facilities and transport connections. The proposed change of use would therefore not have an unacceptable effect on the local centre and would accord with the provisions of Policy LP27 and LP34 of the Local Plan referred to earlier.

Affordable housing

16. Development of less than 10 dwellings which replaces employment floorspace is required under Local Plan policy LP36 to make a contribution to the Council's Affordable Housing Fund. It sets out a sliding scale of contributions, which for a single dwelling is 10%. To this end, a unilateral undertaking to secure a contribution of £3,886, has been executed, which the Council finds sufficient to meet the requirement of Policy LP36 of the Local Plan.
17. While I give very significant weight to the Framework, which indicates that affordable housing should not be sought from residential developments that are not major, the Council has described the acute need for affordable housing in the area, and the importance of small sites such as this in contributing to meeting that need. In these circumstances, the Framework does not outweigh the provisions of the development plan, in particular, the requirement for an affordable housing contribution as set out in Policy LP36 of the Local Plan.

18. The Council's review of values from benchmark rents has formed the basis for what it considers is a 10% contribution, which the appellant does not dispute. I have no reason to disagree with this conclusion.
19. As indicated in the Preliminary Matters, an agreed, signed and dated UU has been submitted that would secure the payment of the contribution. I consider the obligation to be necessary to make the development acceptable in planning terms; directly related to it; and fairly and reasonably related in scale and kind to it. In arriving at this view, I am mindful that no evidence has been supplied which queries either the necessity or the viability of the obligation or the undertaking as a whole. Accordingly, I consider that the obligation meets the relevant statutory³ and national policy tests⁴, while also complying with the provisions of Local Plan Policy LP36 and the Affordable Housing SPD (2014). Consequently, the development would make an appropriate contribution to affordable housing in the Borough.

Other Matters

20. The appeal site is located within Hampton Village Conservation Area. There would be no harm to the special interest and significance of the CA as there are no physical changes to the exterior of the appeal building proposed.

Conditions

21. In addition to the standard time limit condition, I have considered it necessary to include a schedule of plans that the development relates to, for the avoidance of doubt and in the interests of certainty. Also, a condition relating to the construction of the extension in materials to match the existing dwelling is necessary to safeguard the character and appearance of the area.
22. In order to ensure that refuse facilities are adequate and appropriately sited it is necessary that details are approved and implemented. Similarly, I consider that a condition for the layout and storage of 1 cycle parking space to be submitted before the use commences is necessary. This will ensure that alternative modes of transport such as bicycles can be effectively stored at the site.
23. Conditions are necessary that meet the targets for thermal energy, water consumption and carbon reduction in order to accord with the sustainability policies in the Council's development plan. A condition requiring a fire safety strategy is also necessary to meet the standards outlined in the London Plan development plan.
24. I have not included the Council's suggested condition relating to the submission of details of fenestration and doors as there are no such changes to those openings proposed on the submitted drawings.

Conclusion

25. For the reasons given I conclude that the appeal should succeed.

RE Jones

INSPECTOR

³ Regulation 122(2) of the Community Infrastructure Levy Regulations 2010

⁴ Paragraph 57, National Planning Policy Framework (2021)

Schedule of Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings/information: site location plan, DWL 01, DWL 02 A and the sustainable construction checklist.
3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
4. No development shall be undertaken until a Fire Safety Strategy has been submitted to and approved by the Local Planning Authority in accordance with the London Plan. The development shall be undertaken and maintained in accordance with approved details thereafter. The Fire Safety Strategy will need to include details that identify:
1) unobstructed outside space for fire appliances to be positioned on, to be shown on a site plan; 2) areas for use as an evacuation assembly point, to be shown on a site plan; 3) appropriate features which reduce the risk to life and the risk of serious injury in the event of a fire; including appropriate fire alarm systems and passive and active fire safety measures; 4) design measures that minimise the risk of fire spread; 5) means of escape and an associated evacuation strategy for all building users; 6) a robust strategy for evacuation which can be periodically updated and published; and 7) suitable access and equipment for firefighting.
5. No part of the development shall be occupied until details showing the provision at the site of secure parking facilities for 1 bicycle have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the bicycle parking facility has been implemented in accordance with the approved scheme. This facility shall thereafter be kept available for the parking of a bicycle in association with the development at all times.
6. No part of the development shall be occupied until details of a bin storage area and recycling facilities within the site have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the bin storage area and recycling facilities have been implemented in accordance with the approved scheme. These facilities shall be kept available for use in association with the development at all times.
7. The dwellings hereby approved shall achieve a 35% reduction in Carbon dioxide emissions beyond Building Regulations requirements (2013).
8. The dwellings hereby approved shall not be occupied other than in accordance with the water consumption targets of 105 litres or less per person per day, and 5 litres or less per head per day for external water use.
9. The dwelling hereby approved shall achieve BREEAM Domestic Refurbishment Rating 'Excellent' in accordance with the terms of the application & the requirements of the BREEAM Guide (or such national measure of sustainability for house design that replaces that scheme).

*****End of Schedule*****