



Appeal Decision

Site visit made on 28 June 2022

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 September 2022

Appeal Ref: APP/L5810/W/21/3283294

Mega House, 159a High Street, Hampton Hill TW12 1NL

- 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 Wicklow Homes against the decision of the Council of the London Borough of Richmond Upon Thames.
 - The application Ref 21/0175/FUL, dated 15 January 2021, was refused by notice dated 8 April 2021.
 - The development proposed is alterations and extensions to roof and change of use from offices to three residential apartments.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the Council of the London Borough of Richmond Upon Thames against Wicklow Homes. This application is the subject of a separate Decision.

Preliminary Matters

3. The appeal includes additional information that was not before the Council when it made its decision. This comprises a Financial Viability Analysis (FVA) which seeks to demonstrate that an affordable housing contribution is unviable at the site.
4. The appeals' procedural guide makes it clear that 'the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought'¹.
5. Nevertheless, it is my view, that the additional information does not fundamentally alter the scheme in terms of its design, scale and layout. Whilst I appreciate that the information is technical in nature given that it relates to viability, the Council have had sight of it and had the opportunity to comment. I have therefore assessed the appeal based on the additional information.
6. The FVA has been reviewed by the Council. They have agreed with the conclusions of the report and consequently remove their objection relating to affordable housing. Therefore, I consider that matter has been addressed.

¹ Annex M, M.2.1, The Planning Inspectorate Procedural Guide, Planning Appeals – England, August 2019

Main Issues

7. The main issues in this case are:

- the effect of the proposal on office/employment floorspace provision in the Borough; and
- whether the proposal complies with the requirements of the development plan with particular reference to energy and sustainable construction.

Reasons

Office floorspace

8. The appeal site comprises a two-storey vacant office building, located in Hampton Hill. This is an Area of Mixed Use where there is a concentration of shops, services and eating establishments nearby. It also lies within a Key Office Area (KOA).
9. Policy LP41 of the Local Plan 2018 (Local Plan) prevents the loss of office floorspace in KOAs. Its sub-text explains that the areas designated as KOAs have been made so because of their particular importance for office employment space. It identifies the offices most at risk of conversion as those having relatively small floor areas. These smaller offices, it says, offer choice as a low-cost alternative for the Borough's high proportion of small and medium enterprises, allowing these businesses to remain and to expand within the Borough. Local Plan policy LP40 concerns employment uses. It seeks to retain land in employment use for business, industrial or storage use to support a diverse local economy.
10. The importance the Council ascribes to the protection of offices in KOAs is demonstrated by the directions it confirmed in 2014 and in 2016 under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO). These withdrew the permitted development granted by Class O Part 3 Schedule 2 of the Order, for the change of use from Class B1(a) (offices) to Class C3 (residential). The Council is also expected to update the Article 4 Direction to take account of the new Use Class E (includes former Use Class B (offices), therefore reflecting a continued reliance on the protection of commercial uses.
11. To inform the emerging draft Local Plan the Council has published an Employment Land and Premises Needs Assessment (December 2021) (the ELPNA). The ELPNA provides a long-range forecast of employment space requirements in the Borough along with economic growth projections up to 2039. The creation of new office space has historically been a challenge in the Borough, and for the forecast period a shortfall of approximately 73,000m² in office space is estimated. To meet the Council's annual employment projections (approximately 130 jobs per annum minimum) it would need to maintain office floorspace availability to match the projected demand. Therefore, it continues to take a protectionist approach towards office floorspace in the Borough.
12. At a local level the ELPNA has found that occupiers are attracted to Hampton Hill because of the availability of good quality space in smaller units as well as the availability of amenities. Those factors would be consistent with the appeal

building and accordingly it would represent an important location in that respect.

13. Although the ELPNA does not carry any policy weight, it is nevertheless a comprehensive study that details the latest data in office space provision and trends in the way people are choosing to work. It also forecasts future employment growth and the floorspace requirements to meet those anticipated projections. The assessment also considers more recent national planning policies as well as reduced office space take-up during the Covid-19 pandemic. A growth in flexible working and hot desking has also been found, resulting in rental fees for individual space. In the absence of a comparable study which challenges its findings and long-term projections, I have given the ELPNA significant weight.
14. Policy LP41 does not allow marketing evidence to be considered. However, the appellant has marketed the appeal building as offices, albeit with no interest, over a 2-year period commencing in January 2019. The property was also put up for auction as offices but did not proceed to a sale. This confirms, in the appellant's view, that there is no longer any demand for office space at this location, and its loss would not undermine supply in the Borough.
15. The lack of interest over a two-year period would suggest that offices at the site are no longer feasible. However, I have not seen any details that confirm whether the rental and sale price for the offices was comparable with similar properties in the locality during the marketing period. Moreover, the appeal property was not advertised for other employment uses during this time. In addition, a large proportion of the marketing period coincided with recurring lockdowns associated with the Covid-19 pandemic. During that time, any potential appetite for offices would likely have been suppressed, due to people working from home as well as general uncertainty about the need for offices at that particular time.
16. Collectively these factors place an element of doubt on the reliability of the marketing exercise. Accordingly, it does not provide sufficient certainty to confirm that offices or employment uses are no longer viable at the appeal property.
17. In terms of other employment uses that could occupy the building, including those within Use Class E, the appellant claims there would be no interest given the declining viability and vitality of town centres. However, there is no evidence that is the case in Hampton Hill, while the prospects of other uses cannot be completely ruled out given the lack of marketing carried out by the appellant. Thus, that argument attracts limited weight.
18. The appellant has provided updated marketing evidence with the appeal, dated 6th April 2022. This includes details of several offices to let in the locality, which demonstrates, in the appellant's view, an oversupply in the area. The appeal property is included and has a comparable rental value to other premises. However, the duration of the additional marketing period has not been indicated therefore it is not known whether sufficient time to generate interest in the property has been given. Moreover, it is not clear whether any enquiries or viewings were made during that time.
19. The updated marketing evidence shows many properties available to rent in the locality. Yet, I am uncertain whether this represents a reliable picture of

office space supply in the absence of details indicating how long those properties have been available, or whether they reflect a high vacancy rate as a proportion of the local market. Therefore, the updated marketing evidence is not sufficiently robust to allow a relaxation of Policies LP40 and LP41 and the Council's protectionist approach to safeguarding commercial floorspace.

20. Doubts have been placed on the reliability of the ELPNA as it has been informed by forecasts as opposed to what the appellant considers its more up to date evidence of market conditions. It is acknowledged that predictions are made in the ELPNA, however, these are based on historical evidence and trends in the local market. Moreover, it is inevitable that some forecasting will be required given that the study covers the period of the next development plan. In any case, I have found that the marketing evidence submitted by the appellant is not sufficiently comprehensive to prove that offices or employment uses are no longer viable at the site.
21. Although the building currently lies vacant and economically inactive, there is a lack of compelling evidence before me to justify the loss of office space. Furthermore, there is no acceptable evidence to indicate that other employment uses would not be suitable at the appeal premises. The conversion of the building to flats would reduce the availability of employment land, therefore, I conclude that the proposal would result in an unacceptable loss of office / employment floor space in the Borough, which would be contrary to Local Plan Policies LP40 and LP41 in this regard.

Sustainable construction

22. Policy LP22 of the Local Plan requires developments to achieve the highest standards of sustainable design and construction to mitigate the effects of climate change. Schemes for 1 dwelling unit or more, will require a completed sustainable construction checklist (SCC) to accompany an application. The Sustainable Construction Checklist Supplementary Planning Document (the SCC SPD) provides guidance on what is required in this regard. The policy also requires applications to include an Energy Statement demonstrating how the proposal would achieve a 35% reduction in carbon dioxide emissions.
23. The appellant has not provided a SCC or an Energy Statement. Therefore, it is not known whether the proposal could meet the requirements of the SCC SPD or achieve the stated emissions reduction. I have considered whether those assessments could be agreed through a planning condition. However, given the degree of uncertainty relating to the findings of those assessments, the use of a condition would not be reasonable in this case.
24. In the absence of a completed SCC and Energy Statement, I cannot reach a firm conclusion on whether the proposal would achieve the highest standards of sustainable design and construction to mitigate the effects of climate change or achieve a 35% reduction in carbon dioxide emissions. Therefore, the proposal fails to comply with the requirements outlined in Policy LP22 of the Local Plan, the provisions of which I have referred to.

Other Matters

25. The appellant considers that the proposed residential units would be more viable than offices at this town centre location. Those units would also contribute to local housing supply. However, the provision of three flats

represents a modest addition and they would not overcome the significant harm associated with the loss of office / employment space at the site.

Conclusion

26. For the reasons given above I conclude that the appeal should be dismissed.

RE Jones

INSPECTOR