



Appeal Decision

Site visit made on 25 October 2022

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 NOVEMBER 2022

Appeal Ref: APP/P0240/W/22/3290737

Land at Town Bridge Mill, Leighton Road, Linsdale LU7 1LH

- 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 Eric Gadsden, W E Black Ltd against the decision of Central Bedfordshire Council.
 - The application Ref CB/21/02055/FULL, dated 29 April 2021, was refused by notice dated 5 November 2021.
 - The development proposed is described on the application form as: Retrospective planning application in respect of the development approved under Ref: CB/16/02301/FUL. Approval allowed for 2 No. flats to the second floor. The proposal is to sub-divide these into 4 No. small flats. No external alterations to the building and no alterations to the site layout or any other aspects of the development.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission¹ was granted by the Council for the appeal building comprising 10 flats. Since the appeal building was erected, the 2 authorised flats on the second floor have been subdivided into 4 flats without the benefit of planning permission. The appeal scheme seeks to regularise that unauthorised development.
3. Natural England issued advice to the Council during the appeal which relates to development proposals within a 12.6km Zone of Influence (ZoI) of the Chilterns Beechwoods Special Area of Conservation (SAC). The appeal site is located within the ZoI. The Council raised this in its appeal statement and the appellant was afforded the opportunity to comment on the matter.

Main Issue

4. The main issue is whether it is necessary for the appeal scheme to make provision for affordable housing.

Reasons

5. Policy H4 of the Central Bedfordshire Local Plan 2015 – 2035 (2021) (LP) sets out that all qualifying sites of 10 or more units will provide 30% affordable housing, which should be provided on-site. Off-site provisions will be considered where on-site provision is not viable or off-site contributions are more appropriate. The supporting text to Policy H4 sets out the need for

¹ The Council's ref: CB/16/02301/FULL

affordable housing to help provide sustainable, mixed and integrated communities. This is consistent with the advice of the National Planning Policy Framework (the Framework).

6. It is the appellant's case that the appeal scheme has resulted in a net increase of 2 dwellings, from 2 to 4 dwellings, and therefore no affordable housing provision is required. The Council disagrees on the basis that the appeal building now comprises 12 flats, compared to the 10 flats permitted. It is therefore claimed that an on-site provision of affordable housing or a financial contribution towards off-site affordable housing provision would be necessary to make the development acceptable with regard to the development plan and its impact on local infrastructure and affordable housing stock.
7. The information presented indicates that the appeal building was substantially completed in late 2020/early 2021, with all of the ground and first floor flats being first occupied between February and July 2021. It was therefore only a very short period of time which passed between the appeal building being completed externally and the submission of the planning application for the appeal scheme.
8. The appellant has explained that the 2 authorised flats failed to let, resulting in them being adapted and marketed for co-living, with internal arrangements including 2 entrance doors onto the communal hallway and an additional kitchenette for each flat. The appellant further explains that the co-living flats also failed to let before their sub-division into 4 flats. The appellant's submissions indicate the appeal building comprised 10 flats for less than 9 months, during which time the appellant made various internal alterations compared to the 2 authorised flats.
9. In isolation, the subdivision of 2 flats into 4, resulting in a net increase of 2 dwellings, would not require provision for affordable housing to accord with Policy H4. However, the aims of this development plan policy and the fact that a total of 12 flats have been created by the same developer within the appeal building over a very short period of time are relevant material considerations in this case.
10. Had the appellant originally sought planning permission to erect the appeal building in its current form, which the appeal scheme now seeks to regularise, that development would have been required to make provision for affordable housing in accordance with Policy H4. This is a relevant material consideration, as granting planning permission for the appeal scheme would effectively provide a route for development to avoid the affordable housing contributions set out in the development plan, without satisfactory justification.
11. It has been explained that the 4 unauthorised flats are more affordable than the 2 authorised flats would have been because they are smaller in size. I have not been provided with any information which demonstrates how much more affordable the 4 unauthorised flats may be to rent compared to the 2 authorised flats. The 4 unauthorised flats may be let at a lower rate than the 2 authorised flats were advertised to let, but they do not comprise affordable housing as defined in the Framework. The appeal scheme does not contribute towards affordable housing provision, the need for which is set out in the development plan.

12. The 4 unauthorised flats are occupied, whereas the appellant states that the 2 authorised flats failed to let. They are in a town centre location, at second floor level in a building which does not have a lift or balconies, but I do not consider this necessarily makes them more likely to attract younger occupants, who may be better suited to smaller flats. There is also no significant evidence provided which demonstrates there is a more urgent need for such housing, including compared to affordable housing as defined by the Framework.
13. I have not been provided with any marketing details relating to the 2 authorised flats, or other detailed information which demonstrates they would be difficult to let. It is not clear how long the 2 authorised flats were advertised for let before they were altered to create co-living flats, or how long those co-living flats were advertised to let before they were converted into the 4 unauthorised flats the subject of the appeal. It is also not clear whether they were advertised to let at an appropriate rate for the local market. However, it is apparent that any marketing which took place may have been limited on account of the short periods of time involved. I am therefore unconvinced that it would not have been possible to successfully let the 2 authorised flats, had they been built in accordance with the planning permission and appropriately marketed, or that they could not be successfully let in the future.
14. The Framework refers to the Government's objective of significantly boosting the supply of housing and the appeal scheme provides 2 additional homes in a town centre location with good access to services. Given the small increase in units, the social and economic benefits of the appeal scheme are modest compared to those that would be associated with the 2 authorised flats and attract little weight. The subdivision of 2 flats into 4 has resulted in the appeal building being converted from 10 flats into 12 without a contribution towards affordable housing provision being made in accordance with the development plan. This undermines the Council's plan-led approach to the delivery of affordable housing and is a social disbenefit, to which I attach significant weight in the circumstances.
15. On the face of it, the appeal scheme accords with Policy H4 of the LP. However, in the absence of affordable housing provision to reflect the whole of the appeal building which the appeal scheme forms an integral part of, the material considerations outlined above indicate planning permission should not be granted.

Other Matters

16. The Council's reason for refusing the planning application refers to the development having an unmitigated and unacceptable impact on existing local infrastructure. The Council's submissions, including its officer report, do not explain which elements of local infrastructure may be adversely affected by the development. I have not been provided with any evidence that the development has had any adverse impact on local infrastructure. I do not therefore find any harm in this regard.
17. The Council has referred to evidence of significant recreational pressures on the SAC resulting from development within the ZoI. The Conservation of Habitats and Species Regulations 2017 (as amended) require that, where a project is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, the competent authority must, before any grant of planning permission, make an appropriate assessment of the

project's implications in view of the relevant conservation objectives. As I have found the proposal would be unacceptable for other reasons, it is not necessary for me to undertake an appropriate assessment.

Conclusion

18. For the reasons outlined above, I conclude that the appeal should be dismissed.

L Douglas

INSPECTOR