The Planning Inspectorate

Appeal Decision

Hearing held on 17 January 2023

Site visit made on 18 January 2023

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2023

Appeal Ref: APP/L5810/W/22/3290854
Windmill, 80 Windmill Road, Hampton, TW12 1QU

- 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 James Collins of Oxygen 56 Ltd against the decision of London Borough of Richmond Upon Thames.
- The application Ref 21/0772/FUL, dated 24 February 2021, was refused by notice dated 22 October 2021.
- The development proposed is conversion of pub to a single dwelling. Creation of 3 family homes in the car park.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the hearing it became apparent that the Financial Viability Appraisal dated 22 February 2021 submitted as part of this appeal was not the same version of the document the Council made its decision on, which was dated 17 March 2021. I was provided with the correct version of this document during the hearing, and have fully considered its contents in reaching my decision.

3. The planning application was refused on the grounds of highway and pedestrian safety. However subsequently the Council has removed its objection on these grounds.

Main Issue

4. Therefore, the main issue is whether or not the proposed development would make adequate provision for affordable housing.

Reasons

5. Policy LP36 of the Local Plan (2018) (the Local Plan) states 50% of housing units will be affordable housing and that a contribution towards affordable housing will be expected on all housing sites. At the hearing the Council stated a financial contribution commensurate with 40% of the development would be required for this site. The policy also states that, having regard to a number of factors including economic viability, the Council will seek the maximum reasonable amount of affordable housing. Further detail, including with regard to assessing financial viability and calculating off-site contributions from small sites is provided in the Supplementary Planning Document Affordable Housing (2014) (SPD)

6. The Appellant concludes that the scheme cannot viably provide any affordable housing, however the Council's assessment is that the scheme should be subject to an affordable housing contribution of around £390,000. No planning obligation has been provided to secure any provision of affordable housing.

7. One of the main points in dispute relates to the Benchmark Land Value (BLV). The main difference between the February 2021 and March 2021 Financial Viability Appraisal, with regard to BLV, is that a 20% landowner premium is added to the Existing Use Value (EUV) of the car park. The other main assumptions and methodology remain the same. This EUV+ of the car park is agreed between the main parties. However, there remains dispute regarding the BLV of the pub and its garden. The appeal site currently has a pub at ground floor. At first floor there is residential accommodation. This is accessed via the pub and does not have a separate kitchen. As such the existing use of the premises is a pub with associated residential accommodation.

8. Policy LP36 of the Local Plan states that in most circumstances the EUV+ approach should form the primary basis for determining the BLV. I have a valuation from an independent RICS commercial surveyor which states that the market value for the ground floor pub alone would be £490,000. Or, in its current condition the pub and associated accommodation would be £810,000. The appellant contends that this EUV should be used to establish the BLV.

9. However, Planning Practice Guidance (PPG) is clear that 'EUV is the value of the land in its existing use. Existing use value is not the price paid and should disregard hope value' and that 'Market evidence can be used as a cross-check of benchmark land value but should not be used in place of benchmark land value.' I therefore do not have an assessment of the EUV of the site that meets the PPG standards. As such I am not satisfied that these figures represent the EUV of the site.

10. Consequently, I turn to assess the evidence submitted regarding alternative use value (AUV). I am provided with a quote to provide a new external staircase as well as a further estimate of building works including the installation of a kitchen, reconfiguration of bedrooms and new bathroom. This would create a separate self contained residential unit. It was agreed at the hearing that this would amount to refurbishment. Therefore, this would represent an alternative use value (AUV). I am also provided with an estimate of the cost of the refurbishment of the ground floor to office use.

11. The Council agreed with the Appellant's assessment that the sales value of a first floor self-contained residential unit would be £575,000 and the capital value of the ground floor office would be £300,000. The Financial Viability Appraisal by S106 Management states that these valuations include two car parking spaces for the office and one for the flat. However, costs should be taken into account when defining BLV and there is dispute on this point.

12. The Appellant has provided a cost for the conversion of the upper floor to a self contained flat of £100,000, and costs for the conversion of the ground floor to office use of £30,000. These are estimates, and other than a quotation for building works to install a staircase, are unsupported. Nor do they include any costs of items such as professional or marketing fees. Consequently, I cannot rely on these assumptions. I am also provided with the industry standard of the BICs median estimate of conversion costs along with a detailed breakdown of the corresponding professional fees. In the absence of detailed evidence to the

contrary, I am not satisfied that the cost of conversion would differ so significantly from these figures.

13. Consequently, I find inclusive of the parking spaces allocated to each use, an AUV of £58,000 for the office space and £194,000 for the residential accommodation to be reasonable. Based on the circumstances of this case, this figure should be used to establish the BLV. Taking into account the agreed EUV+ of the car park of £210,000 this results in a BLV of £462,000.

14. Matters of sales values and build costs remain in dispute. However, it was agreed at the hearing that if I were to adopt the Council's BLV, then even if I were to adopt the Appellant's sales values and build costs the scheme could viably provide some affordable housing. I do not have any mechanism to secure any contribution towards such provision. Consequently, the scheme that I am presented with is unacceptable in relation to this main issue.

15. Therefore, the proposed development would not make adequate provision for affordable housing. As such the proposed development would be contrary to Policy LP36 of the Local Plan, as well as the advice in the SPD, the aims of which are set out above.

Other Matters

16. Planning permission has been granted for the conversion of the pub to a single dwelling in October 2020 (LPA reference 20/1885/FUL). Planning permission has also been granted for the construction of a terrace of 3 family houses on the car park land in February 2022 (LPA reference 21/3330/FUL). Both of these applications are subject to S106 agreements which require affordable housing contributions. The appellant has stated that the contribution levels would make these schemes unaffordable and as such they would not be built. On this basis, there is not a reasonable prospect of this fallback being delivered.

Conclusion

17. The proposal would not accord with the development plan and there are no other considerations to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, this appeal should be dismissed.

H Miles

INSPECTOR

DOCUMENTS

S106 Management Viability Appraisal dated 17 03 21

APPEARANCES

FOR THE APPELLANT:
James Collins, Director Oxygen 56

FOR THE LOCAL PLANNING AUTHORITY:
Thomas Faherty, Planning Officer - Development Management (Richmond North)
Andy Leahy, Bespoke Property Consultants
Simon Devitt, Bespoke Property Consultants