



Appeal Decision

Site visit made on 19 September 2023

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2023

Appeal Ref: APP/L5810/W/23/3316306

175 Sheen Lane, East Sheen, Richmond upon Thames, London SW14 8LE

- 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 Reeve of Charter Property Development Ltd against the decision of Richmond Upon Thames London Borough Council.
 - The application Ref 22/1489/FUL, dated 10 May 2022, was refused by notice dated 11 August 2022.
 - The development proposed is the change of use of HMO annex to a self-contained dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposed development would make appropriate provision for:
 - sustainable design and construction methods; and
 - affordable housing.

Reasons

Sustainable Construction Methods

3. Policy LP22 of the Richmond upon Thames Local Plan 2018 (RTLTP) requires developments to achieve the highest standards of sustainable design and construction. Developments of one dwelling unit or more are required to complete a Sustainable Construction Checklist which is set out in the Council's Sustainable Construction Checklist Guidance Document Supplementary Planning Document 2011 (SPD). A completed checklist is required to be submitted as part of a planning application. The policy goes on to indicate that to meet these requirements all proposals for change of use to residential are required to meet BREEAM Domestic Refurbishment 'Excellent' standard (where feasible).
4. The SPD sets out the requirements to achieve policy compliance and provides advice and guidance on the implementation of the Council's sustainability policies which, amongst other matters, is to improve the environmental performance of new development in order to help tackle climate change. One of the stated methods to demonstrate compliance in the SPD is a Code for Sustainable Homes and/or BREEAM preliminary assessment (as relevant) undertaken by an accredited assessor¹.

¹ Page 3 paragraph 4 bullet point 1

5. Whilst I note that the appellant would be willing to commission such an assessment, the planning application was not accompanied by any of the recommended methods set out in the SPD which would demonstrate the overall environmental performance of a proposed development and would comply with RTLP Policy LP22. No assessment or sustainability construction checklists are before me now.
6. I acknowledge that Building Regulations requirements have been upgraded to require a higher percentage reduction in CO² emissions than when the RTLP was adopted. However, the BREEAM Domestic Refurbishment standard includes a holistic range of environmental issues which go further than Building Regulations requirements.
7. Consequently, I find that the highest standards of sustainable design and construction methods have not been demonstrated and therefore the proposed development would be conflict with RTLP policies LP20 and LP22. In failing to submit a comprehensive sustainability checklist the proposal would also fail to comply with the requirements set out in the SPD.

Affordable Housing

8. RTLP Policy LP36 and its supporting text points to a substantial need for affordable housing in the borough. It sets out that a contribution towards affordable housing will be expected on all housing sites. For proposals for 1-9 units (gross), including conversion, this should be by way of a financial contribution secured by a planning obligation by way of a legal agreement.
9. The amount due would be commensurate with the scale of development and calculated on the basis of the open market value of the development and using the Council's benchmark rent per week. On the evidence before me, it appears that the need for the contribution sought by the Council arises from the development and satisfies the 3 tests in Regulation 122(2) of the CIL Regulations 2010. Whilst I appreciate that the appellant has indicated that they would be willing to enter into an obligation for this purpose, no such legal agreement is before me.
10. The proposal therefore fails to secure appropriate financial contributions towards the provision of affordable housing and so is in conflict with Core Strategy Policy LP36. The proposal also fails to comply with the Council Supplementary Planning Document on Affordable Housing 2014 and the National Planning Policy Framework in this regard.

Other Matters

11. Whilst the Council did not refuse the application in respect of principle, design, living conditions, residential standards, flood risk, highways matters or fire safety, the lack of harm on these is a neutral factor which does not outweigh the harm the I have found on the main issues.

Conclusion

12. For the reasons given above, having considered the development plan as a whole and having taken all other matters into consideration, I conclude that the appeal should be dismissed.

K L Robbie INSPECTOR