



Appeal Decision

Hearing held on 30 April 2024

Site visit made on 30 April 2024

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th June 2024

Appeal Ref: APP/P1940/W/22/3312789

Office, Emperor House, 12 Church Street, Rickmansworth WD3 1BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Miheer Mehta against the decision of Three Rivers District Council.
 - The application Ref is 21/2816/FUL.
 - The development proposed is described as: 'Second floor rear extension to provide a new flat'.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been received from Mr Miheer Mehta against Three Rivers District Council. That is the subject of a separate decision.

Preliminary Matters

3. As the appeal site is located adjacent to a listed building and within a conservation area, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) in my reasoning.
4. The appeal site relates to a building that has recently been converted into 9 flats¹. In 2022, planning permission was refused² for a second floor rear extension above the existing flat roof for office use. This was subsequently allowed at appeal³. Both parties have confirmed that, in scale and design terms, the appeal scheme is the same as that of the allowed office extension. This has not been implemented. The appeal scheme therefore seeks planning permission for the same external structure but for residential use.

Main Issues

5. The main issues are:
 - whether the proposed development would accord with the development plan policies and national guidance with regard to highway safety and parking stress; and

¹ Application Ref 21/0902/PDR.

² Application Ref 22/1372/FUL.

³ Appeal Ref APP/P1940/W/22/3308225.

- whether the proposed development would accord with the development plan policies regarding the provision of affordable housing.

Reasons

Parking

6. Policy CP10 of the Three Rivers Core Strategy (2011) (the CS) requires adequate provision for all users including car parking and seeks to ensure all development is designed and located to minimise the impacts of travel by motor vehicle. Policy DM13 of the Development Management Policies Local Development Document (2013) (the LDD) requires parking provision to be in accordance with the parking standards and zone-based reductions in Appendix 5 of the LDD.
7. The appeal site is located within a Controlled Parking Zone (CPZ). The policy justification for DM13 sets out that parking in these areas is frequently used to maximum capacity and, as a consequence, there may be a conflict in the use of space between existing residents and occupiers of new residences. It states that where new development within a CPZ is expected to add to the demand for on-street parking and where local streets can be shown to have difficulty in meeting the increased demand, then residents of the new development will not qualify for parking permits.
8. The Council sets out in its evidence that parking pressures and the demand for parking permits are high in this location. The site is within a town centre and within easy walking distance of a number of shops and services. It is also in close proximity to access points for bus, train and underground services.
9. The development is proposed to be car-free which would accord with the zone-based reduction set out in Appendix 5 of the LDD. The appellant has provided a signed and completed UU with the appeal. To deliver a car-free development, the UU would need to ensure that those living there would not be eligible to apply for a residents' parking permit. However, access to parking permits is not something that can be directly controlled through planning legislation. The issue of permits is the responsibility of highway authorities and subject to Traffic Regulation Orders (TROs). The TRO can be amended to specify which properties can apply for permits.
10. Whilst I note that there are no objections to the UU from the Council, I am required to make my own assessment as to whether it meets the tests for obligations as set out in the Framework. Within the UU there are covenants that prevent first occupation or continued occupation by anyone who has obtained a parking permit; prevent occupation until all marketing materials have informed prospective owners that they will not be entitled to a parking permit; prevent occupation unless the purchaser of the flat has been notified that no person occupying the dwelling may apply for a parking permit; and prevent occupation unless a tenancy agreement sets out that each tenant, and future tenant, is not entitled to a parking permit.
11. However, although there is reference to TRO amendments in the definitions, there is no explicit clause that prevents occupation of the proposed development until the Council has removed the appeal property's address from the relevant Traffic Regulation Order, to prevent a parking permit being obtained. The above restrictive covenants would therefore not necessarily be

effective at preventing occupation by those with permits and therefore they carry limited weight in my assessment.

12. Indeed, the Council confirmed at the hearing that the TRO would not be updated following the completion of the UU. As such it is unclear to me how the Highway Authority would be notified of the UU and its restrictions. Consequently, I am unable to conclude that the UU would, in fact, prevent future occupiers from obtaining a residents' parking permit. Notwithstanding that the development is for a single flat whose occupiers are unlikely to have more than one vehicle, this is nonetheless a very busy town centre environment. On that basis, the proposal would be likely to exacerbate on-street parking stress, with associated adverse impacts on traffic flow.
13. I therefore conclude that the proposed development would fail to accord with the development plan policies with regard to highway safety and parking stress. It would not comply with Policy CP10 of the CS and Policy DM13 and Appendix 5 of the LDD, described above.
14. The appellant highlighted at the hearing that the approved office did not include any parking provision and was not subject to a UU controlling parking permits. However, the existing parking pressures are related to residents' permit parking. Given that those working at the office are unlikely to live and work within the same CPZ, they would not place the same pressure on residential parking zones.

Affordable Housing Contribution

15. Policy CP4 of the CS requires all new development resulting in a net gain of one or more dwellings to contribute to the provision of affordable housing. In the case of small sites delivering between one and nine dwellings, Part e) of the policy requires commuted sum payments towards provision off site.
16. This is not consistent with the National Planning Policy Framework (the Framework) which states that provision of affordable housing should not be sought for residential developments that are not major developments. Nonetheless, the Council's evidence, including the Needs Analysis, sets out a robust case that there remains an acute need for affordable housing in the area and highlights the importance of small sites in contributing to the shortfall. On the evidence before me, I therefore give Policy CP4 significant weight.
17. The policy states that commuted sum payments will be broadly equivalent in value to on-site provision but may vary depending on site circumstances and viability. The justification to the policy states at paragraph 5.39 that, where non-viability is the reason for non-compliance, financial evidence should be submitted alongside the planning application. The site falls within the Highest Value Three Rivers market area as set out at Chapter 7 of the Affordable Housing Supplementary Planning Document (2011) (the SPD). This requires a contribution of £1250 per square metre equating to a figure calculated by the Council of £54,125.
18. Both parties have carried out a residual land valuation (RLV). The appellant's financial viability report⁴, concludes that there would be a negative RLV of -£5,897, whilst the Council argues that, following negotiation with the appellant during the course of the application, the RLV is positive and £55,652. The

⁴ Dated 25 April 2022, by Sterling Rose Homes.

difference between the two valuations is primarily attributable to the differences in allocation to professional fees. The Council considers the fees to be excessive, however I have not been provided with any realistic critique of any of the itemised fees that are clearly set out within the appellant's evidence.

19. I acknowledge that the appellant's fees total is high. However, to my mind, the appellant has provided adequate explanation for these fees: this is a small development with a non-standard construction process and involves constructing a new unit over an existing flat roof. This is likely to generate health and safety issues, particularly with regard to the existing occupiers of the units below. I note that decanting of existing residents forms a substantial portion of the appellant's outlined fees. The appellant had originally intended to construct the development as part of the overall redevelopment of the flats, however that redevelopment is now complete. This means that the appeal scheme would now need to proceed as a stand-alone development without benefiting from shared costs that it would have otherwise done, as well as leading to additional costs such as the decanting of residents. I therefore find the appellant's argument with regard to fees more compelling.
20. The appellant has also carried out a separate assessment based on a different methodology, a comparative assessment which arrives at a significantly different land valuation of £160,764. However, there is no evidence that the transactions referred to relate to sites directly comparable to the appeal site, a flat roof of an apartment building. On the basis of the appellant's own evidence with regard to the specific nature of the site, taking into account the implications of abnormal costs; site-specific infrastructure costs; and professional site fees, I am convinced that the residual approach is more accurate and appropriate in this instance.
21. Therefore, on the basis of what is before me and what was discussed at the hearing, I am satisfied that provision of the full affordable housing contribution would render the scheme unviable. However, having regard to the appellant's residual land valuation, I am not convinced that the scheme would remain unviable if a reduced contribution towards affordable housing provision were provided, whilst still allowing for a healthy developer profit of 17.5%.
22. I have been provided with a copy of a signed and completed obligation that allows for my discretion in terms of the exact amount of affordable housing contribution. Policy CP4 allows for flexibility in affordable housing provision, taking into account the site circumstances and financial viability. With a reduced contribution secured through the obligation, the proposed development would therefore accord with the development plan policies regarding the provision of affordable housing, namely CS Policy CP4. However, as I am dismissing the appeal for other reasons, I need not consider this matter any further.

Other Matters

23. The appeal site lies within the Rickmansworth Conservation Area (the CA) which covers the majority of the town centre. Lying within the historic core of the CA, Church Street and High Street have a varied townscape lined with sixteenth and seventeenth century timber framed buildings, many now with Georgian and Victorian facades. As a building with a distinctive Victorian frontage and a reasonably sensitive 1970s extension, the appeal property is of

a similar age and style to other buildings along Church Street and the CA as a whole. With its prominent and attractive frontage, it makes a positive contribution to the character and appearance of the CA. However, to the rear, the building has seen considerable alteration and the existing flat roofed extensions are less visible in public views and contribute little to the character and appearance of the CA.

24. The proposal would involve the addition of vertical slate hung tiles to part of the existing rear projection which can be glimpsed from the street. This would ensure this section of the rear part of the building would be more reflective of the existing frontage. The proposed flat roofed extension itself would be subservient to the main part of the building, partly screened by a parapet and unlikely to be prominent in public views. I am therefore satisfied that the character and appearance and thus the special interest and significance of the CA as a whole would be preserved, as required by the Act.
25. The appeal site also lies adjacent to the Grade II listed building, The Old Vicarage⁵. This was rebuilt in the early eighteenth century with a surviving fifteenth century cross wing. It is brick faced with a timber framed wing that is rendered with alterations in the eighteenth and nineteenth centuries. Its special interest and significance arises, in part, from its architectural and historic value as a building with medieval origins and its evolution over time. Its significance is also derived from its setting within the varied frontages of Church Street described above.
26. The rear of the appeal building with its existing extensions and flat roof is visible from the windows and adjacent garden area of the listed building. This element of the setting of the listed building has been compromised by the conglomeration of extensions and thus does not make a positive contribution to its special interest and significance. Given that this aspect of the setting of the listed building has already been compromised by the existing extensions, I am satisfied that the proposed subservient extension within the existing footprint of the appeal building would not result in any additional harm to the special interest or significance of the listed building through development within its setting. The special interest and significance of the listed building would therefore be preserved through the appeal proposal in accordance with the Act.
27. For the above reasons, the proposal would not be harmful to designated heritage assets. The Council concluded similarly. It would therefore comply with Policies CP1 and CP12 of the CS and Policies DM1, DM3 and Appendix 2 of the LDD which together and amongst other things seek to ensure new development is of a high quality, preserves local distinctiveness and conserves heritage assets in a manner appropriate to their significance. Nevertheless, this weighs neither for nor against the appeal and does not alter my conclusions on the main issue.

Planning Balance and Conclusion

28. At the hearing the Council confirmed that it can only demonstrate a 1.9 year supply of deliverable housing sites. This is unchanged since the determination of the appeal application and represents a substantial shortfall where paragraph 11. (d) of the Framework would be triggered.

⁵ List Entry Number: 1173498.

29. I acknowledge that the scheme would make a minor contribution to housing supply. I also accept that there would be economic benefits from the construction and occupation of the flat. There would also be benefits through the provision of an affordable housing contribution, albeit a reduced one. However, all these benefits are comparatively minor in respect of a single residential unit and as such carry limited weight in favour of the appeal.
30. Moreover, whilst the Framework refers to boosting the supply of housing, including affordable housing, it also seeks to encourage the use of sustainable transport modes, and requires new development to function well for existing and future users. I have also set out above how the benefits arising from a single new unit would inevitably be limited.
31. As I am unable to conclude that the UU would restrict the issue of parking permits for future occupiers, there would be conflict with local policies with regard to highway safety and parking stress.
32. Therefore, applying paragraph 11. d)ii), I conclude that the adverse effects of allowing the appeal would significantly and demonstrably outweigh the benefits, when assessed against the policies taken in the Framework as a whole. There are no other material considerations of such weight to lead me to conclude otherwise.
33. For the above reasons, having taken account of the development plan as a whole, the approach in the Framework, and with regard to all other relevant material considerations, I conclude that the appeal should be dismissed.

Paul Martinson

INSPECTOR

APPEARANCES

Appellant:

Miheer Meta

Council:

Lauren Edwards
Adam Ralton
David Coate

Senior Planning Officer
Development Management Team Leader
Viability Consultant, Adams Integra