



Appeal Decision

Site visit made on 24 September 2024

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th November 2024

Appeal Ref: APP/L5810/W/24/3339085

First and Second Floors, 43 - 45 Broad Street, Teddington, Richmond Upon Thames TW11 8QF

- 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 Munir Raza (Wellington Enterprises) against the decision of the Council of the London Borough of Richmond Upon Thames.
- The application Ref is 23/2422/FUL.
- The development proposed was described as *'the application seeks consent to change the use of Nos 43-45 Broad Street (at first and second floor levels) from vacant office use to four flats. External balconies at 41, 43 and 45 Broad Street are proposed'*.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal scheme seeks to change the use of the first and second floors at 43-45 Broad Street from currently vacant office space to create four flats (two on each floor). Further changes to the fenestration at upper floor levels and the installation of external balconies, including at No 41, are also proposed and included in the original development description.
3. It is noted however that the application site boundary was drawn so as to exclude No. 41 from the extent of the application, whilst the application form sets out the appeal site address in the manner shown in the banner heading above. I have therefore determined the appeal on the basis of the extent of the planning application as defined by the submitted site location plan, which excludes No. 41.
4. In addition to the quoted policies of the Local Plan¹ (LP) reference has also been made to policies from the emerging Richmond Local Plan (eRLP) which is at *'Publication (Regulation 19 version) Consultation Version'* stage². As such, it may be subject to modifications and I have not been advised as to its status or the status of its policies and whether or not it has been formally adopted. As such, the weight that I can give it is limited.

Background and Main Issues

5. The appeal relates to the first and second floors of 43-45 Broad Street, a four-storey corner building located on the corner of Broad Street and Elfin Grove. Planning permission³ was previously granted in 2022 at 41 Broad Street – part of the current appeal building but not this appeal - for the change of use of the

¹ July 2018

² Published 9 June 2023

³ LPA Ref No: 22/1214/GPD26

first and second floors of that part of the building to residential. Planning permission has also previously been granted for balconies and changes to fenestration at first and second floor levels at Nos 43-45⁴.

6. The appeal scheme was described in the terms set out in the banner heading above, including reference to external balconies. However, the Council's reasons for refusal do not refer to the effect of the scheme upon the character and appearance of the appeal property and, in the absence of any further compelling evidence to do so, I have framed the main issues as set out below and determined the appeals accordingly.
7. Thus, the main issues are the effects of the appeal scheme upon:
 - The supply of office accommodation across the borough;
 - The provision of affordable housing; and
 - Highway and pedestrian safety.

Reasons

Supply of office accommodation

8. LP Policy LP41 sets out the Council's approach to supporting a strong local economy and, with regard to office space, to ensure that there is a range of office premises within the borough. It goes on to highlight particularly the role of small and medium sized business activities within the borough's centres. There is thus a presumption against the loss of office floorspace in all parts of the borough, albeit subject to specific criteria in certain circumstances.
9. Nevertheless, on sites outside designated 'Key Office Areas', LP Policy LP41A (1 and 2) and B set out circumstances and criteria in which loss of office space may be permitted. The appellant has drawn on this in referring to a marketing exercise carried out in relation to the appeal property and submitted in support of the proposal. This concluded that a low response rate to the marketing exercise pre-COVID, and changes to office occupation and working patterns immediately post-COVID, meant that there was little demand for the type of office space provided within the appeal site. The marketing exercise was also extended to reflect changes made to the Town and Country Planning (Use Classes) Order 1987 (as amended) when Use Class E came into being in September 2020⁵ to cover uses formerly falling within Use Classes A1, A3, A3 and parts of D1 and D2.
10. The appeal site however lies within a Key Office Area. LP Policy LP41C is clear that the net loss of office floorspace in such areas will not be permitted. Furthermore, it is equally clear that the criteria that the appellant seeks to rely on, as set out in LP Policy LP41A and B, do not apply to Key Office Areas. The appeal scheme is therefore contrary to LP Policy LP41.
11. Nevertheless, the parts of the building subject to the appeal scheme are I am advised currently vacant. The appellant has drawn my attention to various parts of the National Planning Policy Framework (the Framework) and the London Plan. Amongst them, they stress, amongst other things, the importance of supporting development that makes efficient and effective use

⁴ LPA Ref No: 22/0649/FUL

⁵ Town and Country Planning (Use Classes)(Amendment)(England) Regulations 2020 – SI 2020 No, 757

of land, planning decisions should support the building of homes in appropriate locations, prioritise locations well-connected by public transport and to provide additional homes. This, the appellant states, would support the principle of the appeal scheme.

12. However, the principle of the appeal scheme in resulting in the net loss of office accommodation in a Key Office Area is clearly contrary to LP Policy LP41. No case has been presented to me that the Council's albeit anecdotal assertion that a housing supply in excess of five years can be demonstrated, or that the policies important in the determination of this matter are out of date. Material considerations sufficient to lead me to conclude other than in accordance with the development plan have not therefore been demonstrated.
13. The eRLP, and particularly Policy 21, is also referred to with regard to this main issue. However, for reasons set out above I give its provisions little weight and it has not been determinative in this instance.

Affordable housing

14. The Council's approach to seeking affordable housing is set out within Local Plan (LP) Policy LP36 and supplemented by the 'Affordable Housing' Supplementary Planning Document⁶ (AHSPD). For a scheme that would deliver fewer than 10 dwelling units a financial contribution will be sought. The AHSPD sets out that such affordable housing matters would normally be secured by way of planning conditions or a legal agreement, the latter in the form of either a unilateral undertaking (UU) or a section 106 planning obligation.
15. The appellant has indicated a commitment to contributing to affordable housing provision and has not disputed the need for, or his intention to make, such a contribution. However, I have no such mechanisms before me, either as part of the original planning application or this appeal, to secure such a contribution. This, the appellant states, is because the Council offer no strategic guidance as to what stage such matters should be negotiated and that to do so at an early stage of the process, before the outcome of the proposal is known, would be a waste of time.
16. However, the SPD provides clear guidance on the whole matter of affordable housing provision and the role of legal agreements to secure such provision. Indeed, it states⁷ that discussions should occur 'early in the planning process' and goes on to outline the Council's pre-application advice service⁸.
17. The appellant previously submitted a Financial Viability Appraisal⁹ (FVA) with the initial planning application which sought to demonstrate that provision of affordable housing would render the scheme unviable. However, the FVA was in draft and I have no further information before me as to the appellant's intended status for it within the application and appeal process. Nor is any further reference made to the earlier FVA in the appellant's Statement of Case and it leads me to conclude that the appellant has not sought to rely upon its conclusions. Given this, and its 'draft' status, I too afford it little weight.

⁶ Adopted 6 March 2014

⁷ Paragraph 3.0.1

⁸ Section 3.1

⁹ S106 Management – 29/06/2023 (in draft)

18. As neither a UU nor a s106 agreement has been provided with the original planning application or the subsequent appeal which is now before me, I have no mechanism before me with which to secure the requisite affordable housing contribution. In the absence of a compelling or persuasive argument pursued at the appeal stage, I conclude that in the further absence of a mechanism to secure an affordable housing contribution, the appeal scheme is contrary to LP Policy LP36 and the AHSPD. Whilst eRLP Policy 21 is referred to in the corresponding refusal reason, given its stage in the preparation process, and as it appears to relate to measures to protect the local economy and does not specifically refer to the provision of affordable housing, the weight that I give it in regard to this main issue is limited as a consequence.

Highway and pedestrian safety

19. The appeal site is located within the Teddington Main Centre Boundary and a short walk from Teddington Station. No off-street parking would be provided.
20. Broad Street is a busy thoroughfare and bus route within a central commercial location. Elfin Grove is a narrow cul-de-sac around the head of which are a small number of houses. Parking restrictions on these roads are extensive and parking spaces are limited.
21. It is stated that the appellant is favourable towards sustainable forms of development that promote car free development. The appeal scheme would therefore be a car-free development with a s106 agreement to restrict access to controlled parking zone permits for future residents.
22. However, LP Policy LP45 requires new development to make appropriate provision for the accommodation of vehicles whilst minimising the impact of car travel on the operation of the local road network and local environment. It goes on to state, at Part 3, that car free housing developments may be appropriate in locations with high public transport accessibility, such as areas with PTAL scores of 5 or 6. Although the appeal site lies within the busy commercial centre of Teddington with numerous and frequent bus routes running past along Broad Street, and moderate walk to Teddington Station, the PTAL score for this location is only 3.
23. It is not clear how the appellant has arrived at a higher PTAL score for the site as the Transport Statement submitted with the application clearly identifies the site as having a PTAL score of 3. Indeed, there is clear inconsistency in the appellant's appeal submission which variously refers to the site as being within either PTAL 5 or 6 but which, in any event on the evidence before me is incorrect.
24. However, regardless of the location's exact PTAL score, no section 106 agreement was submitted with the application. Nor has one been presented as part of the appeal submissions. I therefore have no mechanism before me with which to address the harm that would have otherwise arisen from on-street parking in an area where such parking is limited and, at the time of my visit, subject to heavy demand.
25. Thus, for the reasons set out it has not been demonstrated that the appeal scheme would, or is capable of, making appropriate provision for vehicles whilst minimising the impacts of car travel on the local road network and local environment. The appeal scheme is therefore contrary to LP Policy LP45 and

the guidance set out within the 'Transport SPD' Supplementary Planning Document. The eRLP, at Policy 47, is also referred to with regard to this main issue, but for reasons explained above I give its provisions little weight and it has not been determinative in this instance.

Other Matters

26. My attention has been drawn to three other locations within the borough, referred to by the appellant as 'appeal precedents', for schemes for the conversion of offices to form residential flats. However, all three given examples, of varying age, relate to applications for prior approval¹⁰ under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (hereafter, the Order).
27. The process set out within the Order for the determination of such applications, and the matters for which approval is required, are very different to those of applying for planning permission. As the appeal before me relates to the refusal of an application for planning permission rather than of prior approval, the weight that I give to these matters is limited as a consequence.

Conclusion

28. The appellant has not challenged the Council's statement that a housing land supply in excess of five years exists within the borough, nor have I been presented with any other evidence to lead me to question the Council's position. No case has therefore been made that there is an overriding imperative for the provision of the additional residential units that the appeal scheme would provide, or which would lead me to conclude that policies most important to the determination of this matter are out of date.
29. The appellant has submitted evidence of a marketing campaign in relation to the appeal property. As the site lies within a Key Office Area this is not required by LP Policy LP41 as the principle of the net loss of office space is not supported and will not be permitted. Nevertheless, on the evidence before me the marketing exercise that was carried out is now of some age and ended in November 2021. No updates to that exercise have been provided, nor much in the way of detail of the responses or outcome of what was carried out beyond the very brief summary set out in the marketing summary. LP Policy LP41 is clear in its intent and provision and I have not been persuaded that material considerations exist that should lead me to conclude other than in accordance with the development plan in this respect.
30. Furthermore, in the absence of an appropriate mechanism to secure appropriate provision of affordable housing contributions and to ensure that the appeal scheme makes adequate provision for vehicles whilst minimising the impacts of car travel on the local road network and local environment, the scheme is also contrary to LP Policies LP36 and LP45.
31. For the reasons set out therefore, and having considered all other matters raised, I conclude that the appeal should be dismissed.

G Robbie INSPECTOR

¹⁰ The cited examples all relate to applications for prior approval under Schedule 2, Part 3, Class O (offices to dwellinghouses) of the Order