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## Appeal Decision

Site visit made on 14 February 2025

**by David Wyborn BSc(Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 13 March 2025**

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**Appeal Ref: APP/L5810/W/24/3350980**

**Unit 2, 13 St. Johns Road, Hampton Wick, Richmond Upon Thames KT1 4AN**

- 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 Clean Cut Media against the decision of the London Borough of Richmond Upon Thames.
  - The application Ref is 23/2035/FUL.
  - The development proposed is the change of use from live/work unit to 2 two-bedroom flats.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Unit 2 is located in the corner of this courtyard development, which was allowed on appeal in 2001. When permitted, the development consisted of 7 live/work units. The Council Planning Report for this present proposal explains that the original consent granted at appeal (Ref 00/2485) restricts the use of the live/work units to wholly B1 use (now Class E(g)(i)), or partly B1 use and partly for living accommodation (first floor only) in conjunction with the B1 use and not as a separate dwelling unit independent of the B1 use. The proposal seeks to cease the live/work use in Unit 2 and provide a two bedroomed flat on each floor.

### Main Issues

3. The main issues are whether or not;
  - the loss of the office floorspace would be acceptable having regard to the development plan,
  - the proposal would make, or needs to make, provision for affordable housing,
  - the proposal would represent an acceptable form of development having regard to any flood risk, the provisions of the development plan and the National Planning Policy Framework (the Framework),
  - the scheme would make sufficient provision for on-site car and cycle parking,
  - the scheme would provide suitable living conditions for future occupants, having regard to external amenity space, and
  - the scheme would achieve, or needs to achieve, development plan requirements to reduce carbon dioxide emissions in residential development.

## Reasons

### *Office floorspace*

4. Policies LP40 and LP41 of the London Borough of Richmond upon Thames Local Plan 2018 (Local Plan) set out the policy criteria for schemes that involve employment and the local economy, and offices. The Policies Map identifies the appeal site as being located in a Key Office Area and criterion C of Policy LP41 states that, in such designated areas, the net loss of office floorspace will not be permitted. The scheme involves the loss of the office space and would be contrary to this policy requirement.
5. Furthermore, this element of Policy LP41 is clear that the allowances in the other parts of the policy, to allow a demonstration through marketing of a lack of need and then a sequential approach to the change of use that may allow other uses, do not apply in a Key Office Area.
6. The London Plan 2021 also has a series of policies that seek to promote and protect business space. This includes Policy E2 which explains that where development proposals involve the loss of Business Use Class space it should, in summary, either be demonstrated that there is no reasonable prospect of the site being used for business purposes, or that an equivalent amount of business space is re-provided.
7. The appellant has included valuation information and marketing details, and related analysis and commentary, to seek to show that there is no reasonable prospect of the space being used for business use in the future. The details explain that the property is currently vacant and has been since February 2022. It is detailed that the premises have been marketed by a local commercial estate agency since that time and no interest or offers have been received.
8. I have had regard to all the information, including the examples of other commercial properties that are available for rent or purchase in the vicinity and which are considered to be comparables and seek to additionally show that there is no demand for the appeal premises.
9. However, there is not a detailed marketing report included with the submissions that sets out the type of information that the Local Plan references, for example in terms of the requirements for areas outside the Key Office Areas. Furthermore, the marketing adverts that have been included in the appeal papers only detail that the available space for rent is the ground floor office/studio space. The adverts appear to make no detailed reference for leasing or purchase of the first floor accommodation.
10. Unit 2 is a single planning unit and as explained in the Planning Report this live/work unit can be used either wholly in B1 use (now Class E(g)(i)) over both floors or the ground floor office use can be used in conjunction with living accommodation on the first floor. The planning restriction does not appear to allow the separate use of the ground floor from the first floor, if the first floor was to be in residential use. There is, therefore, it appears from the submissions before me, no robust marketing evidence for Unit 2 as a whole, either as a live work unit or for both floors wholly in office use. This reduces the weight that can be attached to the arguments that the marketing information demonstrates that there is no need for

such accommodation, because the space as a whole does not appear to have been tested in the market.

11. I note the comments about the lack of demand for live/work units and the submissions include that the nearby live/work properties at Fairlight Mews, 15 St Johns Road and Unit 6 were found to be unviable and allowed to be used for residential use. However, I do not know all the background that justified these permissions and the level of marketing which took place at those times. The approval at Fairlight Mews was based on a 2014 application and Unit 6 an application in 2020, so circumstances may have been different at those times.
12. In any case, I am not persuaded that the marketing information has been sufficient to demonstrate that for Unit 2 there is no reasonable prospect of the site being used for business purposes. The premises appear to be modern, usable and convenient accommodation that could fulfil a range of business purposes either solely in such use or in combination with an upper floor residential use.
13. Drawing these matters together, the site is located in a Key Office Area where the Council require such uses to be retained to support the economy and where Policy LP41 of the Local Plan is specific that it does not allow the loss of such business space. That the unit is modest in size does not mean, in terms of the policy, that the loss of the space is any less important. There is no reason why even small units cannot make their contribution to supporting the local economy and help to provide a mix of units in an area. This is especially so when this accommodation is in a purpose designed and modern building set in a pleasant courtyard space, close to centres of population and other businesses.
14. Even if a more flexible approach was to be taken to the policy requirements for office accommodation in a Key Office Area, and the marketing and other information was to be taken into account, the submissions are still not sufficient, for the reasons explained, to demonstrate that there is no reasonable prospect of the live/work unit or wholly business use continuing in this unit.
15. It therefore follows that I conclude that the loss of the office floorspace would not be acceptable and the proposal would conflict with Policies E2, E4, E6 and E7 of The London Plan and Policies LP40 and LP41 of the Local Plan which seek, amongst other things, to support a strong economy and ensure there is a range of office premises within the borough.

#### *Affordable housing*

16. Policy LP36 of the Local Plan explains that a contribution towards affordable housing will be expected on all housing sites and sets out the requirements to apply in various cases. The policy allows, where the circumstances are met, the ability to reduce an affordable housing requirement, including on economic viability grounds. If a lack of viability is argued, there is a need for a development appraisal to demonstrate a scheme maximises affordable housing and the policy details confirm that the Council's costs of checking a viability assessment are to be underwritten by the developer.
17. The scheme would convert the live/work unit or wholly business use of the premises to two separate and independent residential units. There is, therefore, as a starting point, a need for an affordable housing contribution, which the Council consider should be in the form of a financial sum as part of a planning agreement.

18. The Planning Report notes that the applicant has provided an affordable housing commuted sum spreadsheet and a valuation report. This is explained to identify a substantial negative residual land value for both units which it is argued results in an unviable scheme and, therefore, no affordable housing is proposed. However, the Council comment that there has not been submitted a full viability appraisal which would be a normal requirement to seek to demonstrate the case for not providing an affordable housing contribution.
19. Furthermore, the Council explain that it has not been able to refer this case to its consultants as the appellant has not indicated a willingness to underwrite the costs in accordance with Policy LP36 of the Local Plan.
20. At the appeal stage, the appellant included a draft Unilateral Undertaking (UU) and indicated a willingness to pay the affordable housing contribution. However, the UU was not progressed and at the final comments stage it was explained that the affordable housing contribution would make the scheme unviable. There is, therefore, no contribution as part of the appeal scheme.
21. In the light of the above information, I am not satisfied that robust evidence has been submitted to adequately demonstrate that an affordable housing contribution could not be provided in this case. In the absence of such robust evidence the scheme would not maximise its affordable housing requirement to accord with adopted planning policy. I therefore conclude that the proposal would not provide an appropriate provision for affordable housing and thereby would conflict with Policy LP36 of the Local Plan and the related Supplementary Planning Document Affordable Housing (2014).

#### *Flood risk*

22. Although the Council refer in the Planning Report to the site as being within Flood Zone 2, the Environment Agency Flood Map that the appellant has included at the appeal stage identifies the site within Flood Zone 1, in terms of river and sea flooding. As the Council has not disputed this mapping information in its appeal statement I have treated the site as falling within Zone 1 for these types of flood risk. However, it is common ground that the site falls within an area that is susceptible to groundwater flooding with a >50% risk, which the Council comment is shown on its mapping system.
23. The Framework explains that some changes of use should not be subject to the sequential test, nor exception test, but should still meet the requirements for site-specific flood risk assessments in accordance with the requirements of footnote 63. This footnote confirms that, amongst other circumstances, a site specific flood risk assessment should accompany all proposals for land that may be subject to other sources of flooding (in Flood Zone 1) where the development would introduce a more vulnerable use.
24. The flood risk vulnerability classification is set out in Annex 3 of the Framework. Buildings used for offices fall within the less vulnerable category and dwelling houses in the more vulnerable category. Consequently, the proposal would introduce a more vulnerable use to the ground floor space, in an area which is susceptible to ground water flooding.
25. A site specific flood risk assessment is required in these circumstances and the proposal has not been accompanied by such a document. A site specific flood risk

assessment would have included an evaluation of the level of flood risk and identified any measures that would be necessary to make the property safe or safer, without increasing flood risk elsewhere.

26. Consequently, the risks and associated measures that may be required to make the ground floor flat safe or safer from ground surface water have not been evaluated.
27. Addressing the potential for flooding and taking appropriate measures are an important component to make the new residential accommodation acceptable in planning terms. In the absence of an appropriate site specific flood risk assessment, it is necessary to take a precautionary approach. I conclude that, based on the information available, the proposal would not represent an acceptable form of development having regard to flood risk. Accordingly, the proposal would not meet with the requirements of Policy SI13 of The London Plan, Policy LP21 of the Local Plan, the Council's Strategic Flood Risk Assessment and the Framework which set out the approach to development and flood risk.

### *Parking*

28. Within the courtyard, the manoeuvring areas are reasonably tight with identified parking spaces close to the various units. The information from the appellant is that Unit 2 presently has one allocated car parking space and one allocated cycle space. This is confirmed by the application form which also indicates that the proposal in its residential use would have the same allocation.
29. Policy LP45 of the Local Plan sets out the approach to parking and servicing for development and requires new development to provide parking in accordance with the standards set out in the Plan. The site is located within public transport accessibility level 3 (PTAL) and in these circumstances the Local Plan requires that sites should meet with the maximum off-street parking standard.
30. The Council calculate this to be up to 0.75 vehicle spaces per dwelling which it equates to one parking space per unit. With two units, each requiring a vehicle space and only one being provided, it is considered that there is the potential for a vehicle associated with one unit to be displaced into the adjoining roads. While I note the appellant's argument that this is a sustainable location, with good transport links, the parking requirement is related to the PTAL rating.
31. There is no report or other convincing evidence that addresses any issues of parking stress so as to be confident that if a vehicle associated with one of the new flats was to be parked in an adjoining street that there would be sufficient capacity. I note from my site visit that the adjoining road is limited to parking for residents and business permit holders only.
32. In the absence of such information, and with the deficiency of a parking space, the only other option would be for one of the units to be provided on a car-free basis. This provision would need to take the form of a planning agreement. A draft agreement formed part of the appeal submissions, however, this has not been completed. It is explained at the final comments stage that this is because the parking demands of the proposal would be limited. However, while the scheme is only deficient by a single vehicle space, I consider that there is no particular reason why the policy requirements should not be met, and the scheme does not adequately address this matter.

33. It is also not entirely clear from the plans where the existing cycle parking space is at present, and a space would be required for each flat. In the absence of specific and detailed evidence to demonstrate how the scheme would provide the required cycle parking spaces it is not clear how the proposal would meet this sustainable travel requirement.
34. Based on the information available and the above analysis, I conclude that the scheme would not make sufficient provision for on-site car and cycle parking, and this would conflict with Policies LP44 and LP45 of the Local Plan (2018) and the Supplementary Planning Document Transport (2020).

#### *External amenity space*

35. The internal living accommodation of the two units would meet the appropriate space standard and there is no reason to believe that the living conditions within the flats would not be acceptable. In terms of external space, the present live/work unit can accommodate a residential occupation and there is no external amenity space for those occupants. Furthermore, any occupants of the building would have access to the large areas of public recreational space nearby, including Hampton Court and alongside the Thames.
36. Nevertheless, Policy LP35 of the Local Plan confirms that all new dwellings, including conversions, should provide adequate external space. This amenity space is required to meet a number of requirements, including it being private, usable, functional and safe. In this case, there would be no external amenity space for either unit and, therefore, the requirements of the policy would not be met.
37. In conclusion, the lack of external amenity space would mean that the scheme was not compliant with Policy LP35 of the Local Plan and the Residential Development Standards Supplementary Planning Document (2010). However, there are mitigating factors in this case, as I have outlined above, and the harm resulting from this policy conflict would be moderate.

#### *Carbon dioxide emissions*

38. Policy LP22 of the Local Plan concerns sustainable design and construction requirements for development, including conversions to residential. There is a requirement to demonstrate reductions in carbon dioxide emissions of 35% and developers are required to incorporate measures to improve energy conservation and efficiency, as well as contributions to renewable and low carbon energy generation.
39. The Planning Report explains that the scheme failed the Sustainable Construction Checklist and an energy statement was not submitted with the proposal. Consequently, a detailed and formal assessment in terms of carbon dioxide emissions has not been undertaken.
40. The planning application is an opportunity to assess the state of the building and to provide any reasonable changes, such as the provision of a renewable energy system. This is a policy requirement, even if Unit 2 is a modern and existing building, and the level of sustainability may already be reasonable. Each site, even if modest in size, can make a contribution to reducing emissions and collectively this can be worthwhile.



41. With the requirements of Policy LP22 of the Local Plan, and the lack of detailed and formal information to demonstrate what and how improvements could be achieved to meet the intentions and requirements of the policy, there is little understanding of what would be necessary or reasonable undertakings for Unit 2. Consequently, it would not be appropriate for this matter to be left to details pursuant to a planning condition in any approval.
42. To conclude, the proposal does not provide sufficient information to demonstrate engagement and compliance with the requirements of Policy LP22 of the Local Plan which seeks to ensure reductions of carbon dioxide emissions in residential development.

### **Other Matters**

43. The site is located within the Hampton Wick Conservation Area. I am conscious of the duty to ensure that all proposals in a conservation area preserve or enhance the character or appearance of the area. In this case, there would be minimal external changes, and with the building in the corner of the courtyard and set back from the road, the scheme would preserve the character and appearance of the area and would cause no harm to heritage significance.

### **Conclusion**

44. The scheme would provide two independent units of accommodation and, therefore, provide a small boost to housing supply. It would utilise an existing building making effective use of the land in a built up area and it would no longer remain vacant. There would be economic and social benefits during the conversion works, and in subsequent occupation. These would be worthwhile aspects of the scheme, however, only two units of accommodation would be delivered and in a Council area which can demonstrate a Framework compliant supply of housing land. Overall, the combined benefits should be attributed limited weight in favour of approval.
45. On the other hand, based on the information available, the scheme would involve the unacceptable loss of office space, would not make suitable provision for affordable housing, would not be an acceptable development in terms of flood risk, would not adequately address issues in terms of car and cycle parking, would cause moderate harm for future occupants due to a lack of suitable external amenity space and would not meet the requirements to reduce carbon dioxide emissions. These combine to be significant objections to the scheme that weigh to a very substantial extent against the proposal. It is such that the proposal would not comply with the development plan when considered as a whole.
46. In coming to these views, I am conscious of the Framework guidance that substantial weight should be given to the value of using suitable brownfield land within settlements for homes. However, for the reasons explained, in particular, the concerns with the loss of office space and flooding, the land would not be suitable brownfield land for residential development.
47. Planning law requires that the decision should be made in accordance with the development plan unless material considerations indicate otherwise. For the reasons explained above, the harm and related development plan conflict would not be outweighed by other material considerations.

48. Consequently, I conclude that the appeal should be dismissed.

*David Wyborn*

INSPECTOR