

**READING BOROUGH COUNCIL: APPEAL DECISION REPORT**

**PLANNING APPLICATIONS COMMITTEE: 26 June 2024**

**Ward:** Redlands

**Appeal No.** APP/E0345/W/23/3335887

**Planning Ref:** 221162/FUL

**Site:** Land Adjacent 300 Kings Road, Reading

**Proposal:** Construction of a part five - part three storey building of 14 residential apartments (C3) and associated undercroft car parking

**Decision level:** Delegated

**Method:** Informal Hearing

**Decision:** Appeal ALLOWED, with s106 legal agreement (Bilateral Section 106 agreement)

**Date Determined:** 21 May 2024

**Inspector:** L Condé BSc, MSc, MRTPI

**Site description and background**

The application site comprises a surface car park which currently serves a four storey building located on the south side of Kings Road. Vehicular access is from the rear via Muirfield Close. The site is adjoined by office development in Kings Road and residential to the south.

The site is located just outside the Reading Central Area and is within an air quality management area. An area to the front of the site is also identified as an area of potentially contaminated land.

An earlier planning application: 180683/FUL: Construction of a part five - part three storey building of 14 residential apartments (C3) and associated undercroft car parking was granted planning permission at Planning Applications Committee on 7 November 2018 and was subject to a legal agreement, which secured:

- Provision of 4 on-site residential units as affordable housing, comprising of 2 x 1 bed and 2 x 2 bed shared ownership units
- Commuted off-site affordable housing contribution of £35,000. Payable on first occupation and index-linked from date of permission
- Employment Skills and Training Plan financial contribution towards construction-phase training of £2, 825

The officer recommendation on the application subject of the appeal (221162) was to refuse permission for the following four reasons (summarised):

Reasons for refusal

1. Failing to make an appropriate contribution towards the provision of Affordable Housing.
2. Failing to secure an Employment and Skills Plan (construction phase only; employment and skills plan, or financial contribution),.
3. Failing to secure an appropriate financial contribution towards carbon offsetting in the Borough.
4. The proposed development, through its under provision of 3 bedroom units and over provision of 1 bedroom units, would fail to adequately contribute towards meeting identified housing needs in the Borough.

At the appeal, the Appellant provided a Bilateral Section 106 agreement (agreed by Officers and Council's solicitors) to address the s106-related matters to the Council's satisfaction and as a result this led to the Council not contesting the second and third reason for refusal.

The Inspector allowed the submission of additional viability information to further address the reasons for refusal related to affordable housing.

### **Summary of Decision**

The Inspector considered that the two remaining main issues were: the affordable housing contribution, and the need for the housing mix

#### Affordable Housing

Policy H3 of the Reading Local plan requires all development for new residential units to contribute toward the provision of affordable housing within the borough, either on-site, or via a contribution. For major development (as was proposed) 30% affordable housing is sought, which should be on-site provision.

The focus of the appeal, given the viability evidence provided by the applicant, was the text of the policy which states:

*"In all cases where proposals fall short of the policy target as a result of viability considerations, an open-book approach will be taken and the onus will be on the developer/landowner to clearly demonstrate the circumstances justifying a lower affordable housing contribution."*

Officers had originally resisted the applicant providing 0% affordable housing on the basis of both housing need within the Borough, which the Inspector acknowledged was pressing, and the fact that insufficient information had been provided to demonstrate the proposal was not viable (insufficient detail on construction costs).

The Appellants version of the viability assessment submitted to support appeal concluded that increasing construction costs were the primary reason for viability issues. The viability as submitted detailed the construction costs associated with the proposal which were reviewed by the Council's viability consultant. It was agreed that the costs put forward were accurate.

Notwithstanding the respective positions of Officers and the Appellant, it was agreed that a late stage review mechanism would be included within the drafted bilateral section 106 to ensure that in the event of any uplift, or indeed fall in construction costs, a financial contribution capped at 30% of the GDV could be secured.

#### Mix

Policy H2 of the Local Plan requires, where possible, that residential development should contribute towards meeting the need for a mix of housing in the Borough. The policy requirement, in this location, is for 50% of the development to provide 3 or more bedrooms. The appeal scheme proposed two 3-bed units. However, the Inspector was mindful of the caveats within the supporting text referring to, 'wherever possible' and 'having regard to all other material considerations'. He also referred to a section of the supporting text which states viability is an example of circumstances whereby flexibility on the mix could be justified. The Appellant had undertaken a sensitivity testing for a scheme which included a policy compliant mix, though a notional scheme, the deficit in the scheme showed a significantly worse viability deficit compared to the appeal scheme. Furthermore, he considered it noteworthy that the previous application included the same number of 3 bed units and was not allowed under the superseded local plan (which did not include the same mix policy). Given

the character of the location and the proximity to central Reading, the Inspector concluded that the contribution of 2-bed units toward the wider housing need, would provide an appropriate mix of housing.

Other matters: S106

The Inspector concurred with the obligations within the signed Bilateral Section 106 agreement. He concluded that the obligations contained within would be necessary to make the development acceptable in line with Policy H3 and the Supporting Supplementary Planning Documents (Affordable Housing SPD (2021)) importantly including specific reference to agreeing to a deferred contribution mechanism with a late-stage review being acceptable.

The Inspector agreed with the inclusion of contributions toward off-site offsets under the zero-carbon homes (policy H5) and the Sustainable Design and Construction SPD (2019). The Inspector also agreed with the inclusion of an Employment Skills and Training Contribution in line with Policy CC9 and the Employment Skills and Training SPD (2013)

Other considerations

The Inspector reviewed the conditions recommended by Officers, and agreed by the Appellant. The majority were applied unchanged, with a number amended to remove 'tail end' ("unless otherwise agreed in writing by the LPA) components to provide conditions which meet the tests under Paragraph 55 of the NPPF.

**Assistant Director for Planning, Transport & Public Protection comments:**

On affordable housing, the Inspector was minded to accept additional information in relation to building costs to overcome the reason for refusal. It is pleasing that the Inspector agreed that the approach by all parties was reasonable and fair and supports the possibility of a commuted sum via a deferred payment mechanism, in accordance with the Council's adopted SPD. He also raised no other concerns with how agreement had been reached on the other obligations and he found them to pass the relevant tests for such.

On housing mix, the outcome is disappointing but not altogether surprising given the site location outside but close to the boundary of the defined town centre and the context of this transitional town centre/industrial/suburban area. The Inspector gave note to the caveats within the supporting text to Policy H2 to support his conclusion on this matter.

**Case Officer: Application stage: Ethne Humphreys / Appeal stage: Anthony Scholes**

