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## Appeal Decision

Site visit made on 1 October 2019

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 01 November 2019

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### Appeal Ref: APP/P1940/W/19/3230999

### 27 Gable Close, Abbots Langley WD5 0LD

- 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 P Realmuto (P1 Ltd) against the decision of Three Rivers District Council.
  - The application Ref 19/0579/FUL, dated 26 March 2019, was refused by notice dated 30 May 2019.
  - The development proposed is described as 'conversion of semi detached house into two flats'.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether the scheme should make a financial contribution towards the provision of affordable housing.

### Reasons

3. Policy CP4 of the Core Strategy 2011 (CS) seeks an overall provision of around 45% of all new housing as affordable housing. It states that all new development resulting in a net gain of one or more dwellings will be expected to contribute to the provision of affordable housing and does not specifically omit residential conversions, such as the appeal scheme, as being exempt from this requirement. While it requires on-site provision in most cases, in relation to small sites delivering 1 to 9 dwellings the policy allows commuted payments towards provision off-site. The policy also allows for variations in provision depending on site circumstances and viability.
4. The Council's Affordable Housing Supplementary Planning Document 2011 (SPD) sets out a formula by which to calculate commuted sums payable. I am satisfied that a contribution of £39,750 in accordance with the SPD formula would be an appropriate and proportionate level of provision from this proposal. The appellant has not provided substantive evidence that an off-site contribution would make the proposed development unviable even though the number of bedrooms and floor area would remain the same. No mechanism to secure a contribution has been submitted. As such, the proposal would conflict with Policy CP4 of the CS and the provisions of the SPD. A proposal should be determined in accordance with the development plan unless material considerations indicate otherwise.

5. Paragraph 62 of the National Planning Policy Framework (the Framework) supports the provision of affordable housing through off-site contributions. Paragraph 63 of the Framework states however, that provision of affordable housing should not be sought for residential developments that are not major developments. Policy CP4 pre-dates the Framework and is not consistent with it. Having regard to the provisions of paragraph 213 of the Framework, it cannot therefore be given full weight and is out-of-date. Paragraph 11d of the Framework is therefore engaged.
6. The effect of the national policy in the Framework is that it would normally be inappropriate to require any affordable housing below the thresholds stated. Nevertheless, whilst there is a presumption that a policy in the Framework should be followed, especially as it postdates the CS, it is also important to acknowledge that a policy that is relevant to the matter in hand should not be applied rigidly or exclusively when material considerations may indicate an exception should be necessary. I therefore share the view of the Council that it is for the decision taker to weigh any conflict between relevant policies in light of material considerations, including local circumstances.
7. The Council has provided detailed evidence of acute affordable housing need locally: A Needs Analysis was undertaken in May 2016 after the publication of the Written Ministerial Statement which introduced the affordable housing thresholds now included in the Framework. Based on the Needs Analysis, the Council's evidence highlights the issue of general house price affordability in the District, plus an exceptionally high need for affordable housing exacerbated by a significant shortfall in supply. It also identifies the importance of small sites in providing affordable housing, with contributions from such sites amounting to over £2.1 million since 2011 being put towards the delivery of 38 affordable dwellings.
8. A further Needs Analysis following the publication of the revised Framework in July 2018 demonstrated that housing stress had increased since 2016. The Council has therefore revisited its position following the update to national policy. There is no evidence before me that affordable housing contributions are acting as a brake on development. Rather, the evidence is that contributions from small sites collected since the policy was adopted in 2011 are delivering affordable housing on the ground. Due to its recentness and the clear conclusions that can be drawn from it, I give this local evidence substantial weight. It underpins the approach in policy CP4 as an exception to national policy.
9. I have taken note of the comments of the main parties on the appeal decision at 9 Lapwing Way, Abbots Langley<sup>1</sup> but have also had regard to other appeal decisions referenced by the Council<sup>2</sup>. My approach is consistent with these decisions, which post-date either the 2018 revised Framework or the February 2019 update to it. While these relate to new build dwellings rather than flat conversions with no net increase in floorspace, neither local or national policy makes any such distinction in relation to the type of dwelling proposed. Therefore, the approach to the provision of affordable housing adopted by the Inspectors in the appeal decisions referenced by the Council is relevant to the appeal before me and can be accorded considerable weight.

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<sup>1</sup> APP/P1940/W/18/3213370

<sup>2</sup> APP/P1940/W/19/3219890, APP/P1940/W/19/3222318, APP/P1940/W/19/3221363, APP/P1940/W/19/3225445

10. The appellant refers to several other appeal decisions<sup>3</sup> which give greater weight to the Framework than to development plan policy. These relate to proposals outside the District, where different development plans are in place. They also do not indicate that equivalent robust evidence of affordable housing need was provided. As such, it is not clear that the circumstances are comparable to the case before me and I give these decisions little weight in relation to this appeal.
11. Accordingly, given the demonstrable need for affordable housing in the District and the importance of delivering through contributions from small sites such as this, the proposal should make a financial contribution towards the provision of affordable housing. In the absence of an appropriate mechanism to secure a contribution, the proposed development does not make adequate provision for affordable housing. The failure to do so counts significantly against the proposal and leads to conflict with Policy CP4 of the CS and the provisions of the SPD which seek to secure such provision.

### **Planning balance**

12. There is no dispute between the parties that the Council cannot demonstrate a 5-year supply of deliverable housing sites, however I have no evidence from either party of the extent of the shortfall in supply.
13. The proposal would make effective use of land and provide an additional dwelling in a Key Centre where the CS seeks to direct development, and which would make a modest contribution to the Council's acknowledged shortfall in housing supply. It would provide two smaller dwellings likely to fall within a lower price bracket than the existing house, however neither would fall within the definition of affordable housing in the Framework. There would be local economic benefit from construction and the activity of future occupants and the proposal would also achieve energy efficiency benefits. These factors weigh in the scheme's favour. Given the modest scale of the development however, such benefits attract limited weight.
14. The proposal would not conflict with other policies of the development plan, however the absence of harm in these respects is not a benefit and this is of neutral consequence in the planning balance.
15. I have concluded that the absence of a contribution towards the provision of affordable housing would frustrate the Council's ability to provide affordable housing. Given the evidence before me of the acute and substantial need for affordable housing, the conflict with Policy CP4 of the CS is of great significance. I therefore give substantial weight to the resulting conflict with the development plan policy.
16. The Framework is recent policy to which I afford considerable weight. In these circumstances however, I find that the threshold set out in national policy is not of sufficient material weight to outweigh the conflict with the development plan in this case. The adverse impacts of granting permission without a contribution towards the provision of affordable housing would significantly and demonstrably outweigh its limited benefits when assessed against the policies in the Framework taken as a whole.

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<sup>3</sup> APP/N5660/W/16/3155044, APP/N5660/W/17/3182086, APP/N5660/W/17/3189818, APP/N5660/W/18/3196509

17. For the reasons given above, I find that the proposal would conflict with the development plan when read as a whole. There are no other material considerations, including the Framework, that indicate that the appeal should be determined other than in accordance with the development plan.

**Conclusion**

18. For the reasons given above, the appeal is dismissed.

*L McKay*

INSPECTOR