
Appeal Decision

Site visit made on 6 July 2015

by Sue Glover BA (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4 August 2015

Appeal Ref: APP/K5600/W/15/3010078

62 Palace Gardens Terrace, London, W8 4RR

- 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 Bruce McInroy against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref PP/14/08286, dated 21 November 2014, was refused by notice dated 21 January 2015.
 - The proposal is the amalgamation of two residential units (house at ground and upper floors, and a basement flat) into a single family dwelling house, internal alterations including reinstatement of an internal connecting stair between the basement and the ground floor.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The submissions make reference as to whether the proposal is development. However, this is not a matter that may be formally determined as an appeal against the refusal of planning permission. If any person wishes to ascertain whether any proposed use of buildings or land would be lawful, he or she may make an application for the purpose to the local planning authority specifying the land and describing the use.

Main Issue

3. No. 62 Palace Gardens Terrace as existing is divided into 2 separate dwelling units. The main issue is therefore the effect of the loss of the basement dwelling unit on housing supply.

Reasons

4. Policy 3.3 of The London Plan, consolidated with alterations since 2011, recognises the pressing need for more homes in London. The policy expects Boroughs to seek to achieve and exceed the minimum annual average housing target. In doing so Boroughs are required to identify and seek to enable additional development capacity, to identify new and review existing housing sites, and to monitor housing capacity and provision, amongst other things.
5. Policy CH 1 of the Core Strategy (CS) says that the Council will ensure that sufficient housing sites are allocated in order to ensure that the housing targets are met. CS Policy CP 1 sets out how much new housing is expected to be

delivered in different parts of the Borough. These policies set out policies to increase housing supply in the Borough.

6. The Council indicates that the annual target net increase required has risen from 350 units in 2010 to the current target of 733 units. It says that data indicates that 93 units were lost as a result of amalgamation of units between 1 April 2014 and 31 March 2015.
7. Some net loss of units is to be expected, and it is permitted in certain circumstances in accordance with CS Policy CH 3a). However, the cumulative effect of loss of dwellings through amalgamation of units has potential to have a significant effect on the delivery of much-needed housing in the Borough.
8. Whilst CS Policy CH 3b) specifically resists the net loss of social rented and intermediate affordable units, Policy CH 3a) protects market residential use and floor space except in a limited number of specified situations. The specified situations do not apply in the case of the appeal proposal.
9. The text to CS Policy CH 3, paragraph 35.3.34 indicates that the loss of housing through de-conversion can reduce the overall provision of housing stock. It says that to achieve the annual housing target in Policy CH 1, which takes account of net losses of units, it is important to protect residential units in most circumstances.
10. Whilst the appeal proposal would protect the total amount of floor space in residential use, the use of part of the floor space as a separate dwelling unit would not be protected by the appeal proposal. The proposed loss of the basement dwelling unit would be contrary to the objectives set out in CS Policy CH 3.
11. London Plan Policy 3.14B says that the loss of housing should be resisted unless the housing is replaced at existing or higher densities with at least equivalent floor space. The text at paragraph 3.81 indicates that to address London's housing needs, existing housing should be retained where possible and appropriate, except where there are acceptable plans for its replacement.
12. Whilst there would be no loss of residential floor space with the appeal proposal, there would be the loss of existing housing as expressed by the loss of a housing unit contrary to the objectives of London Plan Policy 3.14B. The appellant refers to net additional dwellings secured from the Earls Court Opportunity Area, but I am told that The London Plan indicates that the provision of these dwellings is above and beyond the net annual requirement for the Borough.
13. To conclude on the main issue, the loss of a dwelling at the appeal building would add to an unacceptable cumulative impact on net housing supply in the Borough by reducing the overall housing stock contrary to development plan objectives. The development plan policies are broadly compatible with the objective of The National Planning Policy Framework, which seeks to boost significantly the supply of housing.
14. Reference is also made to extant Policy H17 of the Unitary Development Plan (UDP), which is to resist loss of existing, small, self-contained flats of one or two habitable rooms. However, I am told that permission has been granted to extend the basement so that the basement unit as extended would no longer fall within the remit of UDP Policy H17.

15. I am told that CS Policy CH 2f), which resists the net loss of five or more residential units was as a result of the Council's interpretation of development at the time, which it has since altered. As indicated in procedural matters above, whether the proposal is development is a matter not before me.
16. I understand that there is a Contingency Plan in the Core Strategy, which relies on making amendments to existing policies. However, I have assessed the appeal proposal on its merits in accordance with the policies of the adopted plans.
17. The appellant indicates that there is a demand for larger units, but there is no persuasive evidence to indicate that the provision of larger units should be made at the expense of existing housing stock. Planning permission has been granted elsewhere for the amalgamation of dwellings, but I have judged this proposal on its own individual merits.
18. There are no external alterations or extensions proposed so that the character and appearance of the Kensington Palace Conservation Area would be preserved. I have taken into account all other matters including that no. 62 was originally designed and used as a single dwelling house and later subdivided. I have considered all the policies in the Framework, and other national planning policy.
19. Notwithstanding the other matters, they do not outweigh the significant harm that I have identified from the loss of the basement dwelling unit on housing supply. The appeal therefore does not succeed.

Sue Glover

INSPECTOR