



Appeal Decision

Site visit made on 19 January 2016

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 29th February 2016

Appeal Ref: APP/K5600/W/15/3137970

Flats 6 and 7, 58 Cadogan Square, London SW1X 0JN

- 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 Ms Joana Noronha against the decision of the Royal Borough of Kensington & Chelsea.
 - The application Ref PP/15/04641, dated 7 August 2015, was refused by notice dated 2 October 2015.
 - The development proposed is amalgamation of 4th floor flats 6 and 7 along with internal changes to turn the two flats into one apartment.
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Decision

1. The appeal is dismissed.

Main Issue

2. I consider the main issue to be the effect of the loss of a residential unit on housing supply.

Procedural Matters

3. The property is a Grade II listed building. Listed building consent has been granted for the scheme under a separate consent (Council ref LB/15/04642). I am nevertheless required to have statutory regard to this matter under section 66 (1) of the Act. I address this matter below.

Reasons

4. The appeal property is a five storey mid terrace with lower ground floor situated on the western side of Cadogan Gardens. The building is Grade II listed and situated within the Hans Town Conservation Area (CA). The proposed development would amalgamate flats 6 and 7 located at fourth floor level into one unit.
 5. Policy 3.3 of the London Plan (LP) (2015), 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.
 6. Policy CH 1 of the Royal Borough of Kensington and Chelsea Consolidated Local Plan 2015 (CLP) states that the Council will ensure that sufficient housing sites are allocated in order to ensure that the housing targets are met. The Council has indicated that the annual target net increase required has risen from 350 units in 2010 to the current target of 733 units. It states that data indicates that 93 units were lost as a result of amalgamation of units between 1 April 2014 and 31 March 2015.
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7. Some net loss of units is to be expected, and it is permitted in certain circumstances in accordance with Policy CH 3a) of the CLP. 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. Policy CH 3a) protects market residential use and floor space except in a limited number of specified circumstances. The specified circumstances do not apply in the case of the appeal proposal.
9. In addition, Policy 3.14 (b) of the LP states that the loss of housing units should be resisted unless the housing is replaced at existing or higher densities with at least equivalent floor space.
10. The appellant contends that as there is no loss of residential floor space, the proposal would not conflict with the development plan and refers to two appeal decisions (APP/K5600/W/15/3008343 and APP/K5600/W/15/3007959) in support of this stance. However, I am not aware of the evidence which was before the Inspector in those cases which limits the weight which I can attach to them in my decision.
11. The housing targets set out in Policy 3.3 of the London Plan and CH 1 of the CLP are clearly expressed in terms of units. Policy CH 2 and the supporting text also clearly refer to residential units, not floor space.
12. 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 loss of existing housing as expressed by the loss of a housing unit would, therefore, be contrary to the objectives of the LP Policy 3.14B and CLP Policy CH 3.
13. The appellant contends that the existing units are sub-standard as the kitchens are small. However, both flats have functioned in their current configuration for some time and overall I consider that they provide a good standard of accommodation. It is noted that the space standards set out in Policy 3.5 of the London Plan (2015) have now been superseded by the Technical Housing Standard-nationally described space standard (THS) (DCLG 2015) which does not contain minimum floor space requirements for specific rooms, only per unit.
14. The appellant refers to planning decisions (Council ref PP/14/08294 and PP/14/08101) which he considers supports his case. The Council have clarified that in the former case; the unit was considerably smaller and below the minimum space standards set out in the LP. In the latter case the property had access to a private amenity space and it was considered, on balance, that the provision of a family unit with private amenity space was a benefit. These cases are not directly comparable to the appeal proposal which limits the weight which I can attach to them.
15. Criterion (f) of Policy CH 2 of the CLP states that the Council will resist development which will '....result in the net loss of five or more residential units', reflecting the Council's position at that time that planning permission was not required for amalgamations of four units or less.
16. However, the Council changed its position in August 2014 identifying all amalgamations as development for which planning permission was required. The justification for the change was the growth in housing pressures in the Royal

Borough, as demonstrated by increasing difficulties in meeting its housing target which had increased in the London Plan.

17. The appellant considers that the proposal complies with criterion (f) of Policy CH 2 and that the Council should not attempt to change the policy of the Development Plan without a formal review.
18. However, whilst I consider that the Policy is absolutely clear as to larger amalgamations; it is silent on those which result in a net loss of four units or less. It makes no statement that these would be acceptable and the general principles set out in Policy 3.14 of the LP and Policy CH3 of the Consolidated Local Plan equally imply that there is no presumption in other policies of the development plan that these would be acceptable. Such proposals must be considered in the context of the development plan as a whole.
19. The LP has imposed higher housing targets on the Council-these have doubled over the past five years. Consequently the increase in amalgamations can no longer be sustained. It is noted that the appellant has not challenged the Council's assessment of housing pressures or the increasing scale of amalgamations.
20. The 'appropriate balance' between the loss of residential units and the need for larger family homes referred to in paragraph 35.3.18 of the CLP will reflect the circumstances at the time and the increase in the housing target has clearly altered the balance. Furthermore, the last sentence of the paragraph states that future amalgamation will be restricted to ensure that successive developments do not lead to loss of residential units.
21. The appellant considers that the housing targets set out in Policy 3.3 of the LP and Policy CH 1 of the LP are net figures which have already taken account of losses. However, there is a clear presumption against losses to existing stock in Policy 3.14 of the LP and Policy CH 2 of the CLP. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that '*if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise*'.
22. Notwithstanding whether the housing targets have already accounted for net losses, I consider that this would not outweigh the clear conflict with the development plan to resist the loss of existing housing stock and the objective set out in paragraph 47 of the National Planning Policy Framework (the Framework) to significantly boost the supply of housing and the objectives of Policy 3.3 of the LP and Policy CH 1 of the CLP to increase housing supply.
23. To conclude on the main issue, the loss of a dwelling at the appeal property 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 compatible with the objective of the Framework, which seeks to boost significantly the supply of housing.
24. Whilst there would be some benefits of the proposal in terms of creating a family home, this would not outweigh the public policy disadvantages of the loss of a unit of residential accommodation. I, therefore, conclude that the proposal is contrary to Policies 3.3 and 3.14 (b) of the LP and Policy CH1, CH2 of the CLP.

Other Matters

25. The proposal seeks to remove a number of partition walls that were installed as part of the works to convert the property from a single house to apartments in the 1950's. The removal of these later interventions would both avoid any harmful loss of historic fabric or finishes, and indeed facilitate the restoration of these elements of the historic plan form of the listed building. Accordingly the special architectural interest of the building would be preserved in accordance with the expectations of the Act and, moreover, insofar as such works would 'better reveal' the significance of the designated heritage asset, they would also garner support from paragraph 137 of the Framework.
26. However, whilst I acknowledge the modest benefits that would accrue to the character and appearance of the building as a designated heritage asset, these are not outweighed by the harm I have identified in respect of the main issue above.

Conclusion

27. For the reasons stated above, I conclude that the appeal should be dismissed.

Caroline Mulloy

INSPECTOR