
Appeal Decision

Site visit made on 28 June 2016

by Jennifer Tempest BA(Hons) MA PGDip PGCertHE MRTPI IHBC

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

Decision date: 01 November 2016

Appeal Ref: APP/K5600/W/16/3142934

41 Norland Square, London W11 4PZ

- 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 Giles Hannah against the decision of The Council of The Royal Borough of Kensington & Chelsea.
 - The application Ref PP/15/04155, dated 2 July 2015, was refused by notice dated 10 September 2015.
 - The development proposed is amalgamation of ground and lower ground floor flats with the installation of an internal stair and associated internal works to property.
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Decision

1. The appeal is allowed and planning permission is granted for the amalgamation of ground and lower ground floor flats with the installation of an internal stair and associated internal works to property at 41 Norland Square, London W11 4PZ in accordance with the terms of the application, Ref PP/15/04155, dated 2 July 2015 and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PA_010 and PA_400.

Application for costs

2. An application for costs was made by Mr Giles Hannah against The Royal Borough of Kensington & Chelsea. This application is the subject of a separate Decision.

Preliminary Matters

3. Since the appeal was lodged the Minor Alterations to the London Plan (MALP) have become operative. These include the Housing Standards MALP¹ and these are now part of the consolidated London Plan² (LP). The Council has confirmed that there are no policies within the MALP which affect the policies relied upon by the Council in relation to the appeal proposal. The Council has provided an extract from the Mayor of London's updated Housing SPG³ (the Housing SPG)

¹ Housing Standards Minor Alterations to the London Plan: The Spatial Development Strategy for London, Consolidated with Alterations Since 2011; March 2016

² The London Plan: The Spatial Development Strategy for London, Consolidated with Alterations Since 2011; Mayor of London March 2016

³ Mayor of London: Housing Supplementary Planning Guidance March 2016

which the Council considers relevant to the appeal and the appellant has commented on this.

4. The Council's evidence includes material relating to whether the amalgamation of flats is development and the evidence provided by both parties includes reference to decisions relating to lawful development certificates. It is clear from the appellant's evidence that the need to seek planning permission is not disputed. In any event, this is not a matter to be considered as part of my determination of this appeal made under Section 78 of the Town and Country Planning Act 1990.

Main Issue

5. The main issue is the effect of the proposal on housing provision within the Borough.

Reasons

6. The appeal site forms part of 41 Norland Square, a listed building which forms part of a terrace, listed Grade II as 36 – 52 Norland Square. The site lies within the Norland Conservation Area. The evidence indicates that No 41 is divided into four residential units with flats on each of the lower ground, ground and first floors, and a maisonette over the second and third floors.
7. The appeal proposal would result in the loss of one residential unit and the Council's reason for refusing the proposal relates to this matter. The appellant confirms that an application for works for the reinstatement of an internal stair between the lower and upper ground floor levels and internal alterations at lower ground floor level were the subject of an application for listed building consent which has been granted by the Council.
8. Planning law requires that proposals should be determined in accordance with development plan policies unless material considerations indicate otherwise. In this case the development plan includes the London Plan (LP), the Council's Consolidated Local Plan (CLP)⁴ and saved policies of the Unitary Development Plan (UDP). The Council's reason for refusal refers to Policies CH1 and CH3 of the CLP and Policies 3.3 and 3.14 of the LP.
9. Policy CH1 of the Council's CLP addresses housing targets to ensure sufficient housing sites are allocated to meet targets. The policy states that from the adoption of the London Plan, the Council plans to make provision for a minimum of 600 units per annum based on a target of 6000 net additional units. Paragraph 35.3.34 confirms that the annual housing target takes account of net losses of units. Policy 3.3 of the LP relates to increasing housing supply for London and LP Policy 3.3A refers to the pressing need for more homes in order to promote opportunity and provide choice in ways that meet Londoner's needs at a price they can afford.
10. The annual monitoring target set out in the LP for the Borough is now 733⁵. The Council point to the five year housing supply now required as 4,398 dwellings and the estimated supply as 4,416. Consequently, whilst the Council is able to demonstrate a five year supply of housing, the difference between the target and supply figures is described by the Council as marginal at less

⁴ Consolidated Local Plan Royal Borough of Kensington and Chelsea July 2015

⁵ Table 3.1 of the London Plan

than 20 units. However, I note that the Council's supply figure is higher than five times the annual target figure and so includes a buffer. I also note that the annual rate of housing delivery has recently increased with that in 2014/15 showing net residential completions at 982. The Council estimate anticipated losses due to amalgamations of some 50 units per year. Whilst there will be inevitable fluctuations in the housing supply figures including possible gains from sub-divisions, based on the Borough wide figures which have been provided, I am not persuaded by the evidence that the loss of one unit would have any significant effect on the ability to meet the Borough's housing targets. Accordingly, the proposal would not be in conflict with the requirements of LP Policy 3.3 or CLP Policy CH1.

11. Although conflict with Policy CH2 of the CLP does not form part of the Council's reason for refusal, this policy is clearly relevant to the appeal proposal and addresses housing diversity in the Borough. The explanatory text relating to this policy refers to balancing the need for larger dwelling units against the loss of residential units and there being a demand for larger dwellings of three bedrooms or more. A balance is to be struck between the loss of residential units and the need for family dwellings. To limit this, a policy has been developed which resists proposals which result in the net loss of five or more residential units. Future amalgamation will be restricted to ensure that successive developments do not lead to loss of residential units. Policy CH2(f) states that the Council will resist development which would result in the loss of five or more residential units. As the appeal proposal would result in the loss of one residential unit, there would be no conflict with Policy CH2(f). I acknowledge that the wording of the Policy CH2 is silent with regard to development which results in the loss of less than five units.
12. The Mayor of London's Housing SPG is the subject of recently adopted amendments. The Council draw attention to paragraph 1.2.38 of the SPG. This states that in some neighbourhoods, especially in parts of central London, de-conversion of a number of small units into larger dwellings can reduce capacity to meet the requirements of small households. Where there is local evidence that the amalgamation of separate flats into larger units is leading to the sustained loss of homes, boroughs are encouraged to resist this process in line with LP policy 3.14.
13. LP Policy 3.14 addresses existing housing and as a strategic policy it supports the maintenance and enhancement of the condition and quality of housing stock. Policy 3.14B resists the loss of housing unless it is replaced at existing or higher densities with at least equivalent floor space. There would be no loss of residential floor space or habitable rooms as a consequence of the appeal proposals. The Council asserts that housing density is usually measured in units but I am not directed to where this is set out in clear terms in the LP. Nonetheless, even if assessed in terms of numbers of units, the loss of one unit would not have a significant impact on overall densities across the Borough and there is no evidence before me to demonstrate there would be an adverse effect on density within the immediate area of the appeal site. Consequently, as a matter of fact and degree, I find there would be no material conflict with LP Policy 3.14.
14. Policy CH3 of the CLP addresses the protection of residential uses setting out that the Council will ensure a net increase in residential accommodation by protecting market residential use and floor space. Paragraph 35.3.34 refers to

the loss of housing through de-conversion and to other uses which can reduce annual provision of housing. There are limited situations in which losses will be permitted and these are listed in CH3 and this list does not include the amalgamation of units. However, I consider that this Policy cannot be considered in isolation from Policy CH2 of the CLP with which I have found no conflict. Moreover, the proposal would not result in loss of residential floorspace. I find there would be no material conflict with Policy CH3.

15. The parties refer to a number of appeal decisions relating to the amalgamation of residential units. The Council refer to four decisions made in January and February 2016⁶ and one decision dated August 2015⁷ where appeals were dismissed and a determining issue was the loss of dwelling units. One of these⁸ would result in the net loss of three units to create a large five bedroom dwelling and I consider this not directly comparable with the current appeal. The Council do not confirm that the list of decisions they have provided reflects all decisions made within a given period and the appellant draws attention to an appeal decision in November⁹ 2015 where the amalgamation of two flats was allowed.
16. I am not aware of all of the evidence which was before the Inspectors in relation to each of the above decisions and I am therefore unable to conclude that any of these proposals are wholly comparable with the current proposal. Nonetheless, the potential for the cumulative loss of single units to have a potentially harmful effect on the overall supply of housing units is clearly a factor to be taken into consideration. However, the evidence before me indicates that the Council is at present able to meet its current housing targets, notwithstanding the recent increases in those targets set out in the LP.
17. I am provided with extracts from the Borough's Strategic Housing Market Assessment (SHMA) dated December 2015. In terms of dwelling size the SHMA indicates that just over 50% of additional dwellings should be smaller units of 1 – 2 bedrooms and just under 50% should be larger 3 – 4+ bedroom units. Whilst the SHMA demonstrates an alteration in the balance of requirements between larger and smaller units from that set out in the CLP, the SHMA nonetheless confirms there is a continuing need for larger units. I note that the need for three bed units as set out in the table at 3.17 of the Council's statement is significantly higher than the need for four or more bed units. Although the two units at the appeal site clearly meet an existing need for smaller units, the appeal proposal would provide a three bedroom family dwelling with ready access to a garden which would make a contribution towards the identified need for such units.
18. The Council refer to the Issues and Options consultation on housing policies for the Local Plan Partial Review and identifying a revised policy approach to amalgamations in terms of potential impact on housing supply. However, this review is at an early stage and a preferred policy approach has not been selected. The appellant draws attention to an option within the consultation which is to maintain an approach that permits amalgamation of existing units up to a defined threshold of units and/or floorspace. As the review is at an early stage, I do not attribute any significant weight to it in my decision.

⁶ APP/K5600/W/15/3137970; APP/K5600/W/15/3134675; APP/K5600/W/15/3049301; APP/K5600/W/15/3133918

⁷ APP/K5600/W/15/3010078

⁸ APP/K5600/W/15/3049301

⁹ APP/K5600/W/15/3028100

19. Drawing these matters together I find that, on the basis of the evidence provided, the proposal would not have a harmful effect upon the provision of housing within the Borough and would accord with the development plan when considered as a whole.

Other matters

20. Notwithstanding the Council's grant of listed building consent for internal alterations to the appeal properties, in considering the appeal proposal there is a statutory duty to pay special regard to the effects of the proposal on the special architectural or historic interest of the building. From what I saw during my site visit and from my consideration of the proposed plans I have no reason to find that the proposed internal alterations associated with the scheme would diminish the significance of the listed building. Rather, the reintroduction of the stair in its original position between the ground and lower ground floors would bring about some limited benefit in restoring an element of the historic plan form.
21. The site lies within the Norland Conservation Area. The proposal does not entail any external alterations to the property. Whilst there is no evidence to suggest that the proposal would enhance the character or appearance of the conservation area, the character and appearance of the area would be preserved.
22. Neither of these matters has a bearing on my findings in relation to the main issue.

Conclusions

23. For the reasons given above and having taken into account all matters raised, I conclude that the appeal should be allowed subject to conditions. I have attached a condition requiring that the development be carried out in accordance with the approved plans to provide certainty.

Jennifer Tempest

INSPECTOR