

---

# Appeal Decision

Site visit made on 21 March 2017

**by Alexander Walker MPlan MRTPI**

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

**Decision date: 10<sup>th</sup> April 2017**

---

## **Appeal Ref: APP/K5600/W/16/3165766 15 Cheyne Place, London SW3 4HH**

- 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 Paolo Moscovici against the decision of The Council of The Royal Borough of Kensington & Chelsea.
  - The application Ref PP/16/04908, dated 27 July 2016, was refused by notice dated 29 September 2016.
  - The development proposed is the amalgamation of flats 2 and 3 into one residential unit.
- 

### **Decision**

1. The appeal is allowed and planning permission is granted for the amalgamation of flats 2 and 3 into one residential unit at 15 Cheyne Place, London SW3 4HH in accordance with the terms of the application, Ref PP/16/04908, dated 27 July 2016, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: A01, A02, A03, A04 and A05.

### **Main Issues**

2. The main issue is the effect of the development on the Council's housing strategy, with particular regard to the supply of residential units in the borough.

### **Reasons**

3. Policy 3.3 of the London Plan the Spatial Development Strategy for London Consolidated with Alterations since 2011 (the LP) seeks to ensure that identified housing need is met through provision consistent with at least an annual average of 42,000 net additional homes across London. Policy CH1 of The Royal Borough of Kensington and Chelsea Consolidated Local Plan (the CLP) 2015 states that the Council will ensure that sufficient housing sites are allocated in order to ensure the housing targets are met. Policy 3.3 of the LP and CH1 of the CLP are strategic housing allocations policies and do not preclude development involving the amalgamation of existing residential units, or indeed the loss of units. Therefore I do not find that the proposal would be in breach of these policies.

4. Policy CH2 of the CLP seeks to ensure that new housing development is provided so as to further refine the grain of the mix of housing across the Borough. CH2(f) states that the Council will resist development which results in the net loss of five or more residential units. The supporting text to Policy CH2 acknowledges that there is a demand for larger residential dwellings of three or more bedrooms in the Borough and that an appropriate balance needs to be struck between the loss of residential units and the need for larger family dwellings. The proposed amalgamation of the two flats into a single, three bedroom dwelling would result in the loss of only one residential unit. Therefore, I do not find that there would be any conflict with Policy CH2. Whilst CH2(f) explicitly resists the loss of five or more units, that is not to say that development resulting in the loss of less than five units is permissible. The development plan still needs to be considered as a whole.
5. Policy CH3 seeks to ensure a net increase in residential accommodation. This will be delivered by protecting market residential use and floor space except in specific circumstances. The proposal does not fall within any of these circumstances. CH3(a) and CH3(b) make a distinction between protecting market residential use and affordable housing units. The supporting text to the policy acknowledges that the loss of housing through deconversion can reduce the overall provision of housing stock and in order to achieve the annual housing target it is therefore important to protect residential units in most circumstances. It goes on to state that there are a number of limited situations in which losses will be permitted, which are set out in CH3(a) i-v. The proposal would not fall within any of these situations. Consequently, there the proposal would conflict with Policy CH3.
6. Policy CH2 of the CLP resists the loss of five or more units. However, development that would result in the loss of less than five units must also be read in the context of Policy CH3 of the CLP. CH3 permits such development, but only in specific circumstances. Therefore, I do not find that there is any conflict between the two policies.
7. I have had regard to the appellant's reference to the appeal at Stanhope Gardens<sup>1</sup>, where the Inspector found that there was no conflict with Policies CH2 or CH3. However, respectfully, I do not agree with the Inspector's conclusion on this matter. I note that my consideration of Policies CH2 and CH3 is similar to that of other Inspectors who have determined subsequent appeals, as referred to me by the Council. I have also had regard to the High Court case<sup>2</sup> referred to me by the appellant. The appellant contends that this judgement confirms that the Council accepts that the Local Plan policies do not seek to resist development which results in the loss of up to and including four residential units. However, I do not agree that the judgement endorses this acceptance, it merely records it. In any event, based on the evidence before me, it is clearly not the Council's current position.
8. Policy 3.14 of the LP states that the loss of housing should be resisted unless the housing is replaced at existing or higher densities with at least equivalent floor space. I note that there has been some dispute in the past as to whether or not Policy 3.14 relates to residential units. The Mayor of London's Housing Supplementary Planning Guidance (SPG) 2016 states that where there is a

---

<sup>1</sup> Appeal Refs APP/K5600/X/15/3028049, APP/K5600/15/3028100 and APP/K5600/Y/15/3028120

<sup>2</sup> The Queen on the Application of Royal Borough of Kensington and Chelsea v Secretary of State for Communities and Local Government [2016] EWHC 1785 (Admin)

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 London Plan Policy 3.14. Therefore, whilst the Policy does not refer to units, it seems to me that it nevertheless seeks to resist their loss. Whilst the proposal would not result in the loss of residential floor space, the net loss of one unit would result in a lower density of development, contrary to Policy 3.14.

9. The Council confirm that they have a five year supply of deliverable housing sites, which the appellant does not dispute. The Council state that the housing target for the Borough is currently set at 733 dwellings per annum. The evidence before me indicates that in the past housing provision in the Borough was falling short of this target, although in 2014/2015 982 units were completed. Over the next couple of years, the projected completions are expected to fall short of the target once more until they rise again significantly between 2018 and 2021.
10. The appellant has referred me to a recent appeal decision<sup>3</sup> that was the subject of a Public Inquiry, which followed the Council's determination of the application that is the subject of this appeal. Following the evidence given at the Inquiry, it was found that the housing target figure of 733 dpa includes an assumption that 46 vacant units will return per annum. Therefore the new stock housing target should be 687 dpa, add to that a 20% buffer and the 5 year target would be 4,122 units against a supply of 4416 units from deliverable sites. Furthermore, the Council's assumed rate of 46 vacant unit returns pa was found to be greater. Whilst there was some difference between the 2014 AMR figure of 118 vacant units and the DCLG figure of 77 vacant units, a suggested figure of 100 vacant units pa would be a reasonable figure to work from. I note that the Council did not dispute this. Therefore, the Inspector found that the 5 year requirement for new housing stock would be 3,798, including a 20% buffer. This would leave headroom of 618 units which could accommodate the 250 amalgamated units at the Council's suggested rate of 50 dpa. Whilst I have not been presented with the same evidence and cannot apply the same degree of scrutiny, this seems a reasonable approach to adopt and there is no evidence that this position has since changed.
11. The appellant also contends that there is a need for units of three or more bedrooms. The Strategic Housing Market Assessment updates the required housing size figures set out in the supporting text for Policy CH2 of the CLP from 20% one and two bedroom units and 80% three bedroom and more units to 52% and 48% (30% of which is to be three bedroom units) respectively. Notwithstanding this need, the current provision in the Borough is 72% one and two bedroom units and only 16% three bedroom units. Based on the evidence before me I find that there is a need for three bedroom units, which the proposal would make an important, albeit limited, contribution towards.

### **Other Matters**

12. I have had regard to the various appeal decisions referred to me by the Council and the appellant. However, whilst I note that there are similarities with the proposal before me in terms of the nature of the development, the details of these proposals is limited and I am not satisfied that the evidence available to

---

<sup>3</sup> Appeal Refs APP/K5600/C/16/3143934 and APP/K5600/X/16/3136227

the Inspectors determining them was comparable to that before me. Therefore, I can only attribute them limited weight.

13. I have been referred to the Local Plan Partial Review by both parties. Publication Policy CH1 of the review states that the Council will resist the loss of residential units through amalgamations of existing or new homes unless the amalgamation will result in the net loss of one unit only and the total floor space of the new dwelling created will be less than or equal to 170sqm gross internal area. I note that the Council confirm that there are outstanding objections to this policy. However, the appellant contends that these either support the policy or require it to be more flexible, i.e. have a higher floor space threshold. Therefore, it seems reasonable to conclude that the policy would unlikely change so significantly that it would no longer support the proposal. Whilst the review is still subject to examination and does not form part of the development plan, I nevertheless attribute this policy moderate weight.
14. The appeal property is located within the Royal Hospital Conservation Area (the CA). The Council have raised no objection to the proposal in respect of whether it preserves or enhances the character or appearance of the area. As the proposal would not involve any external alterations, I find that it would have a neutral effect on the significance of the CA and therefore would preserve its character and appearance.

### **Planning Balance**

15. The proposal would conflict with Policy CH3 of the CLP and 3.14 of the LP, which seek to ensure that there is a sufficient supply and choice of housing. Notwithstanding this conflict, I do not find that, in this instance, the proposal would undermine the Council's ability to achieve its housing targets. In addition, it would also make a contribution towards an identified need for three bedroomed units. Moreover, the emerging Local Plan Partial Review indicates that the Council intend to accept amalgamation development of this scale. Therefore, in culmination, I attribute significant weight to these matters which outweighs the moderate conflict the proposal has with the CLP and LP.

### **Conditions**

16. I have not been provided with a list of suggested conditions were I minded to allow the appeal. Accordingly, I have imposed the standard implementation condition and a condition requiring the development to be carried out in accordance with the approved plans for the avoidance of doubt.

### **Conclusion**

17. For the reasons given above, having regard to all matters raised, the appeal is allowed.

*Alexander Walker*

INSPECTOR