

Appeal Decision

Site visit made on 16 May 2017

by M Seaton BSc (Hons) DipTP MRTPI

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

Decision date: 22 June 2017

Appeal Ref: APP/K5600/W/17/3167441

Flats 1 & 3 Moreton Mansions, 185 Old Brompton Road, London, SW5 0AN

- 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 Christopher Herrod against the decision of the Royal Borough of Kensington and Chelsea.
 - The application Ref PP/16/07727, dated 15 November 2016, was refused by notice dated 10 January 2017.
 - The development proposed is the conversion of two x 1-bedroom flats into one x 3-bedroom residential unit at basement and ground floor level.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the loss of a residential unit on housing supply and choice within the Borough, to meet identified housing needs.

Reasons

3. The appeal site accommodates a three-storey residential block on the Old Brompton Road, which is occupied by 11 separate flats over the various floors. In respect of the Flats the subject of this appeal, Flat 1 is located within the basement of the building, whilst Flat 3 is located on the ground floor.
 4. The unlisted building is located within a predominantly residential area, and is within The Bolton's Conservation Area and adjacent to existing Grade II listed buildings. However, I note that the proposed development does not incorporate any external alterations to the building and therefore would not have a physical impact on the character or appearance, and setting of the heritage assets.
 5. The proposal to convert the two existing flats into a single larger residential unit would not result in a reduction in the overall floor area of residential accommodation, but would as a consequence result in the reduction by a single unit of the quantum of housing stock available within the Borough.
 6. In determining the planning application, the Council has cited policies CH1, CH2 and CH3 of the Royal Borough of Kensington & Chelsea Consolidated Local Plan 2015 (the Local Plan), saved Policy H17 of the Unitary Development Plan 2002 (the UDP), and policy 3.14 of the London Plan: The Spatial Development Strategy for London Consolidated with Alterations since 2011 (the London Plan). These policies seek to ensure that sufficient housing sites are allocated
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to meet housing targets, as well as requiring new residential developments to take into account current evidence in relation to housing need, and ensure that market residential use and floorspace is protected and any loss of housing resisted, unless replaced at existing or higher densities with at least equivalent floorspace.

7. The appellant has contended that whilst the proposal would not result in a net increase in residential accommodation, neither would there be a net loss of residential accommodation, and that this and the contended more efficient use of housing stock should be the measure against which the proposal is assessed rather than the impact on the number of units.
8. In this respect however, I have had regard to Policy 3.14(B) of the London Plan, which refers in the case of loss of housing to the need to achieve replacement use or floorspace *at existing or higher densities* with at least equivalent floorspace. The implication of the assessment when considered in the context of the calculation of density is that it must be against the number of units, rather than in the context of floorspace. I also note that the terminology of Policies CH1 and CH2 of the Local Plan refer in terms of units rather than floorspace, as does the London Plan in respect of quantifying housing targets, which I am satisfied further corroborates the adoption of such a conclusion.
9. I have carefully considered the appellant's references to excerpts from recent appeal decisions at 42 & 43 Egerton Crescent (*Ref: APP/K5600/W/15/3035957*) and 32-34 Evelyn Gardens (*Ref: APP/K5600/W/3007959*). These decisions both concerned the amalgamation of existing residential units, and have been highlighted as having been concluded on the basis that there would be no loss of housing and therefore no material conflict with the Development Plan.
10. However, by the same token, I have also had regard to a suite of appeal decisions referred to by the Council in their evidence, and which take a contrary view. In this respect, I have had particular regard to the conclusions of the Inspector on an appeal decision (*Ref: APP/K5600/W/15/3134675*) for the amalgamation of two residential units at 12 Egerton Gardens within the Borough, where the same conclusions and assessment in respect of qualifying the loss of housing have been reached. I see no reason to depart from the interpretation of the Development Plan policy which I have reached, and which was presented in the previous appeal decision at Egerton Gardens. As a consequence, I am satisfied that the proposed loss of a single unit would sit contrary to Policy 3.14(B) of the London Plan, and Policy CH3 of the Local Plan.
11. Turning to the matter of housing need, the appellant has referred me to Policy CH2(f) of the Local Plan which sets out that development will be resisted which results in the net loss of five or more residential units. It is contended that the policy provides support for the proposed development on the basis that there is a continued demand for larger dwellings of three or more bedrooms, as identified within the supporting text to the policy, and that a balance needs to be struck between the loss of residential units and the need for larger family homes. This evidence has been premised upon a contended over-supply of one-bedroom and two-bedroom units, which the appellant has deduced from analysis of available properties listed from the RightMove website on 17 January 2017.

12. I have carefully considered the appellant's submissions in this respect. However, I am not persuaded that they demonstrate the contended need. The RightMove evidence is subjective at best as I would agree with the Council that it can only be regarded as a *snapshot in time*. Furthermore, it does not provide any details or information related to the proportion of the total stock within the vicinity for sale, the search parameters, the turnover of sales of such units, or any other underlying factors as to why the units are on the market in the first instance. As a consequence, I attach only very limited weight to this evidence.
13. I note from figures provided by the Council from the conclusions of the latest *Strategic Housing Market Assessment (SHMA)* from December 2015, that there is an identified 52% need for smaller 1-2 bedroom units, and a 48% need for larger 3-4+ bedroom units within the Borough as a whole. Whilst I accept that this is comparatively even, I note that the need for 3-4+ bedroom units has significantly reduced from the 80% need for larger units previously highlighted within the Local Plan. Whilst I accept that these figures relate to borough-wide need, neither party has provided any definitive detailed evidence quantifying the local need in the vicinity of the appeal site. I also consider that this would be required in order to accord with the support for the de-conversion into larger dwellings in some neighbourhoods as set out in *The Mayor's Housing Supplementary Planning Guidance 2016*. Nevertheless, in the absence of any information in this respect, I am satisfied that the SHMA indicates there to be a marginally greater need for smaller rather than larger residential units within the Borough.
14. The appellant has highlighted that based upon the Council's own figures from the SHMA, that there is overall a greater need for three-bedroom units (30%) than one-bedroom units (23%). Whilst on the basis of the figures alone this would be undeniable, I am mindful that Policy CH1 of the Local Plan seeks to boost the number of residential units within the Borough through the allocation of sufficient sites for housing to meet housing supply requirements. However, the achievement of the objectives of this policy must also be dependent upon restricting the net loss of residential units for various reasons, including the amalgamation of residential units, with the effect of the proposal being that there would be an overall reduction in the housing stock of the Borough, albeit limited to a single unit.
15. The policy is clearly consistent with the objective of the National Planning Policy Framework (the Framework) to significantly boost the supply of housing. In this respect, I also note from both parties submissions that the reported housing supply position is relatively marginal, with only just over a 5 year supply indicated to be deliverable. Whilst I have not been provided with any particularly robust figures regarding the effect of the quantum of implemented amalgamations of properties over an extended period of time, I note that the supporting text to Policy CH2(f) of the Local Plan refers to a longstanding trend towards the loss of dwellings through amalgamation. In this respect, I consider that the net loss of a further residential unit would sit counter to the objective of the policy.
16. I have noted the appellant's references to further appeal decisions at 1 & 2 Pembroke Cottages, 28 Victoria Road, 77 Drayton Gardens, and 10 Redesdale Street, within the response to the Council's appeal statement, and in particular to a stated ongoing substantial need for larger units. However, on the basis of the evidence placed before me, and as detailed above, whilst I accept that

there is a demonstrable need for larger units, this does not appear to be the main identified shortfall in terms of market housing. As a consequence, whilst I have had regard to the brief excerpts from these further appeal decisions, I have determined this appeal on the basis of its own planning merits and the evidence and information which has been placed before me.

17. The appellant has referred me to the emerging Local Plan, which it is contended the Council has not reached a conclusion on in the context of the determination of the planning application. I am mindful of the appellant's contention that the emerging Local Plan provides support for their case in the form of Policy CH1 b, which indicates that the loss of one unit through amalgamation will not be resisted providing that the dwelling created will be no more than 170 m². However, whilst I note the Council dispute whether the resultant dwelling would meet that threshold, I find that the weight to be accorded to the emerging policies would be very limited in any event as a consequence of the current position of the plan within the process moving towards adoption. Therefore, even if the proposals were to comply with the emerging Policy, I attach no more than very limited weight to this emerging policy in my determination of the appeal.
18. I have also noted the Council's reference to Policy H17 of the UDP, which refers to resisting the loss of existing, small, self-contained flats of one or two habitable rooms. However, in light of the size of the existing units, I do not consider that this saved policy is of any relevance to the proposed development.
19. I accept that the appeal proposal would not result in a reduction in residential floorspace and would make provision for a larger family sized 3-bedroom unit to meet an identified need within the Borough, albeit that it would achieve this through the loss of two existing 1-bedroom units. Whilst I note that the proposal would not be contrary to Policy CH2(f) of the Local Plan as it would not result in the loss of five or more residential units, I find that the loss of a single unit of existing housing stock through the amalgamation of units would clearly conflict with the Development Plan, and is contrary to Policy 3.14(B) of the London Plan, as well as Policies CH1 and CH3 of the Local Plan, as a consequence of the net loss of housing supply.

Other Matters

20. I have had regard to submissions that the Council previously took a different approach prior to 2014, where the assessment of the amalgamation of a small number of residential units similar to the appeal scheme was proposed, with the conclusion that planning permission was not required. Whilst I have noted the submissions in respect of the previous approach, this has no bearing on this appeal, which has been submitted and determined on the basis of an application for planning permission, and which I have considered in the context of the policies of the Development Plan. I am mindful that whether the amalgamation of two residential units to form a single unit amounts to development within the meaning of Section 55 of the Town and Country Planning Act 1990, is ultimately a matter for the courts.
21. I have had regard to the personal circumstances of the appellant in respect of the need for greater space and a larger home, and that this be achieved whilst being able to stay in the area. However, whilst I have attached some limited

weight to this factor, this would not outweigh the harm which I have found in respect of the main issue.

Conclusions

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

M Seaton

INSPECTOR