



Appeal Decision

Site visit made on 4 January 2019

by David Storrie DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2019

Appeal Ref: APP/K5600/W/18/3213187

Flats D and C, 16-18 Lennox Gardens, London SW1X 0DG

- 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 G Bitar against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref PP/18/03722, dated 29 June 2018, was refused by notice dated 24 September 2018.
 - The development proposed is combining Flat D with adjacent Flat C.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr G Bitar against the Council of the Royal Borough of Kensington and Chelsea. This application will be the subject of a separate Decision.

Main Issues

3. The main issues in this appeal are firstly, the effect of the proposed development on housing land supply and delivery, and secondly, on housing mix.

Reasons

Housing land supply and delivery

4. The appeal site consists of two flats located on the first floor of a 6-storey terraced property on the western side of Lennox Gardens, accessed by a central staircase. The proposal would involve internal alterations through the common walls to the front and rear of the flats to form a single residential unit. The site lies within the Hans Town conservation area.
5. Policy 3.3 of the Consolidated London Plan (2015) (London Plan) sets out the housing targets for the borough of 733 units per annum. This is reflected in Policy CH1 of the Royal Borough of Kensington and Chelsea Consolidated Local Plan (Local Plan). Due to persistent under delivery of completions the Council has applied a 20% buffer to their housing target figure. The emerging Local Plan Review suggests a buffer of 5%. I have been provided with limited information other than the review is at an early stage in the process, so I give this limited weight in my consideration.

6. The Council evidence on the impact of amalgamations upon overall housing supply acknowledges that quantifying the total loss of units that has occurred through amalgamations prior to August 2014 is difficult given that before this date the Council took the view that planning permission was not required. For the year 2015/16 amalgamations formed part of the regular monitoring of residential completions (as the Council considered they needed planning permission). There was a net loss of 69 residential units in 2015/16 due to amalgamations, and 23 units in 2016/17. These figures, when combined with figures calculated from Certificates of Lawful Use or Development issued between 2009 to 2014 and Council Tax data for 2014/15 indicate a total loss of some 482 units from amalgamations over the period 2009 to 2017. The appellant does not dispute these figures, so I am content to rely upon them.
7. The proposed development would add to these losses, and, whilst it is only one unit, when viewed cumulatively, I consider that it could have an adverse impact on housing delivery. When completions are below housing targets in the London Plan and the figures of the Council's Annual Monitoring Reports (AMR) show that the borough's five-year housing supply requirement (1 April 2015 to 31st March 2020) is 4,398 dwellings and the current supply from deliverable sites during this period is estimated to be 4,416 dwellings, this demonstrates that although the borough is able to meet its five-year housing supply target, there is limited headroom.
8. Based upon the information before me, amalgamations are impacting on the Council's housing supply and delivery and this is a matter that I must afford significant weight to in my consideration of the appeal. Given this, I conclude that the proposed development would have a harmful effect on the housing supply and delivery of new housing in the borough contrary to London Plan policy 3.3 and Local Plan policy CH1. This is particularly so in a situation where delivery is likely to be marginal, and where policy 3.3 of the London Plan is clear that Boroughs should seek not only to achieve, but also to exceed, the relevant minimum borough average housing target.
9. This would also be contrary to Policy CH3 of the Local Plan that states that the Council will ensure a net increase in residential accommodation, including through the protection of market residential use and floorspace. While the floorspace would not change, the appeal proposal would result in the loss of one residential unit and would in that respect conflict with policy CH3 criteria a. In addition, paragraph 35.3.34 that precedes the Policy states that "*Loss of housing through deconversion, and, additionally to other uses, can reduce the overall housing stock. The AMR monitors losses of residential use and has identified the need to further prevent against losses.*" From this, it is clear that the Policy seeks to protect the loss of housing.
10. It would also conflict with London Plan Policy 3.14 that, amongst other things, seeks to resist the loss of housing unless the housing is replaced at existing or higher densities with at least equivalent floorspace. Whilst the floorspace would not change, the overall density would be reduced.

Housing mix

11. Local Plan Policy CH2 considers housing diversity. Criteria (f) states that the Council will "*resist development which results in the net loss of five or more residential units.*" Given that the appeal proposal would only result in the net loss of one residential unit it would, on the face of it, accord with this policy.

12. However, criteria (a) of policy CH2 requires new development to include a mix of types, tenures and sizes of homes taking into account current evidence in relation to housing need. The Council's Strategic Housing Market Assessment December 2015 (SHMA) indicates that there is roughly a 50/50 split between the likely future need for 1 and 2 bedroom units and the need for 3 and 4+ bedroom dwellings. The SHMA indicates that the need for dwellings with 4+ bedrooms is around 18% and for 3 bedroom units is around 30%. From this it is clear that the need for 4+ bedroom units is less than the need for 1 and 2 bedroom dwellings. The proposed development would replace two 2-bed units with one 4-bed unit. This current projected need must be balanced against the appellant's point that 73% of homes in the Borough are 1 or 2-bed units.
13. The appellant has also said there is a need for family accommodation in the immediate area and that many of the 1 and 2 bedroom units in the locality of the appeal site is underused or empty. This view is supported by comments from the *Milner Street Area Residents' Association*. Whilst I note these assertions, I have not been provided with any clear evidence to support this view so give this limited weight in my consideration.
14. The appellant also refers to Draft Policy CH1 of the Council's Local Plan partial review that states that the Council will resist the loss of residential units through amalgamation of existing or new homes unless the amalgamation will result in the net loss of one unit only and the total floorspace of the new dwelling created will be less than or equal to 170sqm gross internal area. Although the appeal scheme concerns the loss of only one unit which the emerging policy would tolerate, it would, at 208sqm, provide a larger dwelling than that stated. Thus, the proposal would fail to accord with the emerging policy as drafted. I do not consider the difference between the two figures to be insignificant. That said, I have limited information before me on the Local Plan review other than it has been subject to examination so can only give this limited weight.
15. In considering the above, I conclude that the appeal proposal would create a larger family home and contribute to housing diversity including the mix of house types and sizes of homes in the borough. Whilst the projected need for larger family units may have reduced since the Local Plan policy was first adopted, there is still a need for larger family units in the Borough.
16. Consequently, I conclude that the proposed development would not conflict with policy CH2 (a) which requires new residential developments to include a mix of types, tenures and sizes of homes to reflect the varying needs of the Borough. Policy CH2 (f) seeks to resist proposals which result in the net loss of five or more residential units. Whilst it is not worded in a manner to automatically allow or justify a loss of less than five residential units there are only two units in the appeal. I take the view that policy CH2(f) does not apply in this case.

Other matters

17. The proposal would not result in external physical alterations to the appeal property. Consequently, I find that it would preserve or enhance the character or appearance of the Hans Town Conservation Area and accord with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

18. Both parties refer to several appeal decisions to support their cases which come to different conclusions regarding the interpretation of the relevant policies in this case. However, I am not aware of the full circumstances that led to all of those decisions or of what information was before those Inspectors, and so cannot be sure that they are the same as in the case before me.
19. Whilst I note that the Council's Planning Applications Committee granted planning permission in December 2015 for the amalgamation of two flats at 22 and 24 Lennox Gardens, contrary to Officer recommendation, "*because of the lack of family sized homes in the area..*", the proposed development was determined by this same Committee who took a different view.

Planning balance

20. Taking all of the above into account, on balance, I conclude that the proposal would harm the supply of housing in the borough when viewed cumulatively with the overall loss of housing through such conversions, contrary to London Plan Policies 3.3 and 3.14 and Local Plan Policies CH1 and CH3. Whilst I have found that the proposal would not have an adverse impact in terms of housing choice, this does not outweigh the harm I have identified in terms of housing supply. I have determined the appeal proposal on its own planning merits and made my own assessment as to its potential impacts.
21. Whilst I have sympathy with the appellant's personal circumstances and the need for additional space for family related requirements, I do not consider this to be sufficient to outweigh the harm I have identified in terms of housing delivery.

Conclusion

22. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Storrie

INSPECTOR