The Planning Inspectorate

Appeal Decision

Site visit made on 15 September 2022

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 OCTOBER 2022

Appeal Ref: APP/K5030/W/21/3288171
Flat 17, St Bartholomew House, 58 West Smithfield, London EC1A 9DS

- 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 Dr Keith Dawkins against the decision of City of London Council.
- The application Ref 21/00550/FULL, dated 27 June 2021, was refused by notice dated 11 November 2021.
- The development proposed is amalgamation of flats 16 and 17 to create a single residential unit.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have taken the description of development from the Council's Decision Notice as this is a more accurate description of the proposal.

Main Issue

3. The main issue is whether or not, having regard to development plan policy, the proposed development would have a harmful effect on the supply of housing.

Reasons

4. The appeal property forms part of St Bartholomew House which is a seven-storey building comprising commercial uses on the ground floor and residential units on the upper floors. It is a grade II listed building and is located within the Smithfield Conservation Area. It is also located in the Smithfield Residential Area as defined in the City of London Local Plan (2015).

5. The proposed development would result in the amalgamation of flats 16 and 17 to form a single dwelling. That is, in effect, two dwellings to one dwelling, resulting in a net loss of one dwelling. From considering the submitted plans, both existing units appear to offer good-sized residential properties that are located in a highly accessible location.

6. Policy CS21 of the City of London Local Plan (2015) outlines that, amongst other things, one of the means to protect existing housing to meet the City's needs will be by exceeding the London Plan's minimum annual requirement of 110 additional residential units in the City up to 2026 and protecting existing housing.

7. Policy DM21.2 states that the net loss of existing housing units will not be allowed except where: they provide poor amenity to residents which cannot be improved; they do not have a separate entrance; large scale office development would be prejudiced by the retention of isolated residential units.

8. Policy H1 of The London Plan (2021) sets the ten-year targets for net housing completions that each local planning authority should plan for. For the City of London, the ten-year housing target for 2019/20 – 2028/29 is 1,460. The supporting text outlines that the ten-year housing targets should be monitored in net terms taking into account homes lost through, amongst other things, amalgamation. It also outlines that for the purposes of the Plan, London is considered as a single housing market area, with a series of complex and interlinked sub-markets.

9. Policies CS21 and DM21.2 allow for the loss of existing housing under specific circumstances. None of these circumstances apply to the proposed development and it is therefore contrary to these policies.

10. Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.

11. Both parties have referred to the Government's 2021 Housing Delivery Test (HDT) in which housing delivery in the City achieved 296% of the required three year target, although the Council highlight that the target was adjusted downwards due to the impacts of the Covid-19 pandemic and was also based on the 110 dwellings per annum target in the 2015 local plan as opposed to the higher targets of 141 and 146 of the 2016 and 2021 versions of the London Plan respectively.

12. Having regard to the Local Plan Monitoring Report – Housing (March 2021), Appendix 1 shows that for the housing delivery year to 2026, as per Policy CS21 of the local plan, based on actual net additional dwellings, projected housing delivery for unallocated sites with planning permission, and including predicted windfall sites, there would be a shortfall against the requirement of the policy to exceed the London Plan's minimum annual requirement for the applicable timeframe.

13. I acknowledge that when taken with the timeframe prior to the adoption of the local plan, the evidence shows that the projected cumulative dwelling completions would marginally exceed the cumulative plan target. The exceedance is not however of a substantial amount as to justify departing from the policy. It also relies on windfall sites coming forward and planning consents being implemented, for which there is no certainty.

14. Therefore, whilst the HDT results show a strong delivery in the last three years, it is for a small window in terms of the relevant local plan policy for housing delivery and seems to reflect the fluctuating nature of housing delivery in the City, which is heavily reliant on the uncertain emergence of windfall sites. The evidence is that the housing requirement for the local plan period (as outlined in CS21) has not been fully met, despite delivery in excess of the annual requirement in some years. The evidence is that there is nonetheless still a need to provide more dwellings for the plan period as a whole and there cannot be absolute certainty that all the required homes will be delivered in the remaining period of the development plan.

15. Furthermore, I cannot be certain that the plan period requirement will be met taking into account the loss of dwellings through amalgamation and other means. This uncertainty and concern is exacerbated by the fact that the local planning authority is not currently able to demonstrate a five-year supply of deliverable housing sites. Consequently, a compelling case has not been made to set aside the adopted policy which I afford significant weight in decision making terms and the conflict with it is a matter of overriding concern.

16. I acknowledge that the proposed development would result in the loss of one unit, which is a minor amount. Although each application and appeal should be determined on its own individual planning merits, allowing the appeal could be used in support of such similar cases. I consider that this is not a generalised fear of precedent, but a realistic and specific concern given the shared characteristics that will exist with other sites. Allowing this appeal would make it more difficult to resist further applications that would result in the loss of housing, and I consider that the cumulative effect would contribute to an overall harm in terms of providing housing in the City of London and within Greater London.

17. There is no substantive evidence that a change in working patterns or quality of older office space would bring about a conversion of office space to residential units. I acknowledge that such a suggestion may have implications for the Draft City Plan, however the draft plan has not been examined and has limited weight at this stage. There is therefore no certainty that the trend suggested would materialise.

18. The proposed development would result in the loss of housing that would cause harm to the supply of housing. It would be contrary to the requirements of Policies CS21 and DM21.2 of the City of London Local Plan as set out above.

19. The development, resulting in a loss of housing, would also be contrary to the Government's objective to significantly boost the supply of housing as outlined in the National Planning Policy Framework (2021) (the Framework).

Other Matters

20. The appellant has referred to a previous appeal[1] where the main issue was the same as the current appeal. This previous appeal decision pre-dates the current London Plan (2021) and the current National Planning Policy Framework (2021). In that appeal, the Inspector also noted that the Council were able to demonstrate a five-year supply of deliverable housing sites, unlike in the current situation. The decision also pre-dates the Local Plan Monitoring Report on housing from 2021. Furthermore, I do not have any background information or the full details which led to the Inspector making that decision.

21. Therefore, whilst I acknowledge the similarity with the current appeal in terms of the main issue, there are notable differences. For the reasons outlined above I give it limited weight. I am, in any event, not bound by the previous decision, and have reached my own conclusions on the appeal proposal on the basis of the evidence before me.

22. The appellant has referred to the contribution the proposed development would make to providing a more varied housing stock. Whilst this may be a minor

[1] APP/K5030/W/19/3231778

benefit of the proposal, it would not outweigh the harm that would be caused due to the loss of a residential unit and is therefore of limited weight.

23. I acknowledge the appellants reasons for seeking to combine the two units. These are however matters of personal circumstance that seldom carry significant weight in the decision-making process that is primarily concerned with land use planning matters. They are therefore of limited weight in the appeal.

24. I note that the appellant was originally advised that planning permission was not required. This advice however appears to relate to internal works rather than amalgamation as a change of use. Either way, it is understandable that the appellant formed the view that planning permission was not required for their proposal. It is equally understandable that the appellant will have been aggrieved by the outcome of the application following this initial advice. That said, it is not a ground on which I can allow the appeal.

Conclusion

25. The proposed development would therefore conflict with the development plan and there are no identified other considerations, including the Framework, that outweigh this conflict.

26. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR