



Appeal Decision

Site visit made on 23 September 2025

by **A Hunter LLB (Hons) PG Dip MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 October 2025

Appeal Ref: APP/X5990/W/25/3369238

Apartment 10, 67 Tufton Street, City of Westminster, London SW1P 3AF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Galina Volkova against the decision of City of Westminster Council.
 - The application Ref is 25/03608/FUL.
 - The development proposed is described as the “amalgamation of two residential units: Flat 10 (three bedrooms) and Flat 11 (one bedroom) – to create a single family dwelling in order to better accommodate the needs of the household”.
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Decision

1. The appeal is allowed and planning permission is granted for the amalgamation of two residential units: Flat 10 (three bedrooms) and Flat 11 (one bedroom) – to create a single family dwelling at Apartment 10, 67 Tufton Street, City of Westminster, London SW1P 3AF in accordance with the terms of the application, Ref 25/03608/FUL, and the plans submitted with it, namely; drawing no's 01-001 (site location plan); 01-002 (site plan); and 03-001-rev01 (proposed floor plan).

Preliminary Matters

2. In my decision above, I have omitted the superfluous information included within the appellant's description of development.
3. I saw on my site inspection that a door had been formed in an internal wall between flat 10 and 11, which was in accordance with the proposed plans, the subject of this appeal. The connecting door between the two flats had a lock, with a twist access from one side (flat 11) and a key locking method from the other side (flat 10). I have therefore determined the appeal on the basis that the proposed amalgamation of flats has already been undertaken.
4. The Council has advised that its draft City Plan Partial Review (CPPR) is currently being examined, which it says attracts limited weight at this stage. I have not been made aware of any policies of the CPPR that are relevant to the appeal proposal. Consequently, I have determined the appeal on this basis.
5. The appellant has argued that the proposal is not development, including there being no material change of use, which the Council has disputed. I am content that the installation of an internal door between flats 10 and 11 would be an internal alteration and not comprise development in accordance with Section 55 (2) (a) of The Town and Country Planning Act 1990 (as amended).

6. In terms of whether the amalgamation is a material change of use, I have been referred to judgements by the parties. One of these judgments¹ found that the loss of housing units was a relevant factor when deciding whether there had been a material change of use in similar cases. The RB Kensington and Chelsea case² found that the absence of policy support for preventing it, should not be determinative in respect of the amalgamation of flats. The Lambeth judgement³, was the most relevant and recent case, and whilst it related to a Lawful Development Certificate, its circumstances were not dissimilar to those on this appeal.
7. The Lambeth judgement re-asserted that it was a matter of fact and degree whether a material change of use had occurred, and that reference should be had to the established principles in the earlier RBKC⁴ judgement. When applying those principles to this appeal, the key aspects in my opinion are whether there is a change in the character of the use of the land; the extent to which the existing use fulfils a proper planning purpose; and whether there would be significant planning consequence by the amalgamation.
8. In this case the amalgamation relates to 2 no. purpose-built side-by-side second floor flats, one having 3 bedrooms and the other having 1 bedroom (both within Use Class C3), into a single 4-bedroom flat, with both of their front doors retained (that face internally into a corridor), but connected by an internal door. I am content it does not result in any significant difference in the character of the use of the land, nor would there likely be any amenity or environmental impacts as a result of the amalgamation.
9. However, its purpose as a 1-bedroom flat would be lost. This would reduce, albeit to a very minor extent, the Council's overall housing stock. Policy 8 of the City of Westminster, City Plan, 2019- 2040 adopted April 2021 (CP) seeks to retain existing residential units, except for the creation of a family unit or for affordable housing. The policy text explains this is necessary, due to the high cost of land and its limited availability in the City, together with helping to meet affordable housing need, and ultimately to protect Westminster's overall housing supply. There is no indication within the evidence that the Council at present does not have an adequate 5-year supply of housing, or that there is a shortage of 1-bedroom units in this location, or that amalgamations would adversely affect the Council's ability to meet its housing requirements. Indeed, its latest Housing Delivery Test score, dated December 2024 (HDT) was 129%. The 1-bedroom flat was not an affordable unit and whether it was amalgamated or not, there would likely be a neutral effect on affordable housing need and provision, nor am I convinced that retaining the unit would have any significance for land value and its availability across Westminster.
10. Against this background of information, I am not persuaded that the loss of its purpose as a 1-bedroom flat would be a planning consequence of significance, or that the requirement of CP Policy 8 in terms of the loss of existing housing should be determinative as to whether planning controls would apply. Although my role on this Section 78 appeal is not to determine whether the amalgamation is, or is not, lawful development, based on the evidence before me, it would appear likely that it

¹ The London Borough of Richmond-upon-Thames v SSETR [2000]

² R on the application of RB Kensington and Chelsea v (1) Secretary of State for Communities and Local Government (2) David Reis (3) Gianna Tong [2016] EWHC 1785

³ London Borough of Lambeth v Secretary of State for Levelling up, Housing and Communities [2024] EWHC 1391 (Admin)

⁴ Richmond LBC v Secretary of State for Environment Transport and the Regions [1994] 2 PLR 115

would not constitute a material change of use in this case. This is a significant material consideration, that I shall return to later in my decision. In coming to this view, I had regard to the decision notices⁵ provided by the Council relating to applications for certificate of lawfulness for the amalgamation of properties, which were found to require planning permission. However, because there was very limited information provided to properly compare how those cases were assessed and whether they were similar to the amalgamation the subject of this appeal, I have only been able to attach limited weight to them.

11. The appellant has submitted with their appeal health information relating to an elderly parent of one of the occupiers, which is said to directly relate to the need for the amalgamated flat. The Council has had the opportunity to comment on that information during the appeal process. As this relates to the need for the proposed development, I have addressed this matter as a main issue.

Main Issues

12. Accordingly, and notwithstanding the above, the main issues are:

- the loss of a 1- bedroom unit; and,
- whether there is a need for the amalgamated flats.

Reasons

The loss of a 1-bedroom unit

13. The supporting text of Policy H2 of The London Plan, The Spatial Development Strategy for Greater London, dated March 2021 (LP) states that boroughs are encouraged to resist schemes where the amalgamation of separate flats into larger homes is leading to the sustained loss of homes and is not meeting the identified requirements of large families.
14. CP Policy 8 says all existing residential units, uses, floorspace and land will be protected, except where, the reconfiguration or redevelopment of supported or affordable housing would better meet need; or non-family sized housing is being reconfigured to create family sized housing. The supporting text to the policy says it is required to help meet the continued need for family sized housing in Westminster, but it applies to all types and sizes of residential accommodation. It adds that the loss of one existing non-family sized home where this is being reconfigured or merged with another to provide larger units (de-conversion) is permitted, provided other options to extend the building to create larger units have first been explored and that it should not exceed 200 square metres in floor space.
15. In this case, flat 10 was 3-bedroom (said to have had a floor area of 102 square metres), which can be regarded as family sized accommodation, and flat 11 was a 1-bedroom unit (said to have had a floorspace of 64 square metres) and as amalgamated the total floorspace is less than 200 square metres. It is also clear from the layout and type of units, that flat 10 could not otherwise have been extended to provide the additional accommodation. It is also said that the floor areas of both flats (pre-amalgamation) were above the minimum sizes required by the Nationally Described Space Standards, and I see no reason to disagree. There is no dispute between the parties that a 3-bedroom unit would constitute family

⁵ Ref. 24/06830/CLOPUD and 24/01582/CLOPUD

sized accommodation, which it is said is defined in the CP as a property with 3 – 5 bedrooms. Although, the appellant has said that flat 10 originally had 2-bedrooms, and that it was re-configured to suit the appellant's family needs. I saw on my site inspection that it is a 3-bedroom flat at present which provides a good standard of accommodation, and I have assessed the appeal based on it having had 3no. bedrooms and being family sized.

16. Therefore, with a unit of family sized accommodation having already been in-situ, the amalgamation did not relate to 2 no. non-family sized flats, and it would not create new family accommodation. Moreover, it relates to the extension of an existing family unit, by encompassing an existing 1-bedroom flat. By consequence the amalgamation would fall outside of the exception permitted by CP Policy 8.
17. The appellant has referred me to an appeal decision at 29-31 Spring Grove London⁶, which relates to the amalgamation of 2 no. properties within a terrace. That case was within the London Borough of Hounslow, and it was assessed against different planning policies to those on this appeal. Having carefully considered that decision, it was not directly comparable to the circumstances on this appeal relating to adjoining flats, and I attach limited weight to it in my decision. In view of my findings in terms of the conflict with CP Policy 8 I have not needed to consider the appeal decisions referred to by the Council any further.
18. The points made in favour of the amalgamation are noted, including that it would provide larger family accommodation to allow multi-generational family living (the needs of which are discussed further below). Together with the thrust of the supporting text to LP Policy H2 and one of the objectives of CP Policy 8, aimed at meeting the needs of larger families, to reflect occupier's changing demands. These points attract weight in favour of the amalgamation.
19. Following my engagement with the Lambeth judgement above, it is also pertinent to reiterate that the Council has not provided substantive up-to-date evidence of any housing supply issues that indicate that the loss of the 1-bedroom flat would harm its overall housing supply. As also set out above its HDT did not identify any unacceptable housing delivery issues, and the loss of the 1-bedroom flat would likely have a neutral effect on affordable housing provision. Nor have I any evidence that the amalgamation would likely affect Westminster's land value or constraints. The lack of any identified harm would also weigh in favour of the amalgamation.
20. Nonetheless, I therefore conclude that the loss of flat 11 would conflict with CP Policy 8 insofar as it seeks to protect existing residential units, and floorspaces and prevent their reconfiguration.
21. The Council referred to the amalgamation conflicting with LP Policies H1 and H2. Policy H1 is focussed on increasing housing supply on new sites. Whilst the supporting text to Policy H2 was useful to this main issue, the policy itself was mainly concerned with encouraging the development of small housing sites. I did not find the content of these policies to be directly determinative to this main issue.

⁶ Appeal Ref: APP/F5540/W/23/3329494

The need for the amalgamated flats

22. The parent of one of the occupiers of flat 10 is said to have a terminal and degenerative neurological medical condition. The appellant requires the amalgamation of flats 10 and 11, to provide larger accommodation for them all to live together and to provide care for this dependent family member. I have no evidence to dispute this. Based on the information before me, it indicates to me that the parent of one of the occupiers has a protected characteristic.
23. In light of this, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had due regard to the Human Rights Act 1998 (HRA) which at Article 8, requires that decisions ensure respect for private and family life, and the home, Article 8 is also engaged in this case. In reaching my decision, I have kept these interests at the forefront of my mind. However, they are qualified rights, and interference may be justified in the public interest. The concept of proportionality is key.
24. I recognise the paramount importance of the neighbouring occupiers right to have their home, private, and family life respected and this is a primary consideration. Any adverse effects experienced from the appeal proposal could interfere with the neighbouring occupier's rights in respect of their home, private, and family life. Any such impacts would weigh against the proposal in these respects.
25. I have had regard to the well-established planning policy aims of ensuring an adequate supply of housing is available to meet the needs of a range of different occupiers within sustainable locations. I also acknowledge the intentions of the appellant and family to care for the parent of one of the occupiers, and I can appreciate their desire to provide a comfortable living environment alongside family. Taking into account these aspects and the submitted medical information, along with the PSED duty contained in Section 149 and Article 8 of the HRA, I am sufficiently persuaded that the need for the amalgamated accommodation for the family is a factor that weighs in favour of the amalgamation, although I am not convinced that on their own, they would be determinative factors.

Other Matters

26. The appeal site is located within the Smith Square Conservation Area (the CA), which includes a variety of buildings, architecture, public spaces and part of Lambeth Bridge and the river Thames. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires when determining proposals in conservation areas that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. In this case, the amalgamation of the two flats would have no external changes, and its use as a larger unit of residential accommodation would have a neutral effect upon the CA, ensuring it would be preserved, consistent with the duty within the Act.

Planning Balance

27. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires this appeal to be determined in accordance with the development plan unless material considerations indicate otherwise.
28. Although I have found that the amalgamation of flats 10 and 11 would be contrary to CP Policy 8, I found the conflict to be minor, and I am not convinced there would be material harm to the Council's overall housing supply. The amalgamation would also provide enlarged accommodation that would facilitate multigenerational family living. In addition, there is a need for the amalgamation for reasons relating to the continued health and supervision of a parent of one of the occupiers, and the PSED duty and Article 8 of the HRA is engaged. I have also found that on the evidence before me, that the proposed amalgamation would likely not be a material change of use and constitute development requiring planning permission. When taken together these factors weigh heavily in favour of the amalgamation and are significant material planning considerations.
29. In my view, those factors that weigh in favour of the amalgamation notably outweigh the minor conflict with the development plan. I conclude therefore that these are material considerations which mean that in this case the proposed development can be determined other than in accordance with the development plan. I therefore conclude that the amalgamation is suitable for the site.

Conditions

30. A condition requiring the development to be undertaken in accordance with the proposed plans is not necessary in this case with the works having already been completed. Similarly, the Council recommended a condition in respect of the hours of construction works, which for the same reasons would not be reasonable or necessary in this case.
31. The appellant has suggested a condition limiting the amalgamation to a temporary period and to the occupation of an elderly parent of one of the occupiers. I have carefully considered the suggested condition, but in light of my findings, such a condition would not be reasonable and necessary, nor would it meet all of the tests set out within paragraph 57 of the Framework.
32. The Council had referred in its report to a condition relating to car free development, although this was not part of its suggested conditions. As there is a net loss in the number of flats in this case, and no new accommodation or bedroom space created, it would not be reasonable or necessary to impose such a condition. For the same reasons, conditions relating to the provision of facilities for waste disposal and secure cycle storage would not be necessary.

Conclusion

33. For the reasons outlined above, the appeal should be allowed.

A Hunter

INSPECTOR