

# Appeal Decision

Unaccompanied site visit made on 10 August 2017

**by Andrew Dale BA (Hons) MA MRTPI**

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

**Decision date: 16 August 2017**

---

## **Appeal Ref: APP/T5150/C/16/3158343**

### **Flats 1-7, 126 Acton Lane, London NW10 8TX**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr Kamal Harnek Singh Shergill against an enforcement notice issued by the Council of the London Borough of Brent.
  - The enforcement notice was issued on 3 August 2016 under ref. E/14/0601.
  - The breach of planning control as alleged in the notice is: "Without planning permission, the material change of use of part of the ground floor (not including the shop) and the first and second floors to seven residential units of accommodation and the erection of a roof extension to the premises."
  - The requirements of the notice are set out as follows:
    - "STEP 1 Cease the use of the premises as more than ONE unit of residential accommodation/flat and remove all kitchens, except ONE and all bathrooms, except TWO, from the premises.
    - STEP 2 Remove the rear roof extension and restore the roof back to its original condition before the unauthorised development took place and remove all resultant items, debris and materials associated with the completion of STEP ONE."
  - The period for compliance with the requirements is six months.
  - The appeal is proceeding on the ground set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended.
- 

## **Decision**

1. It is directed that the enforcement notice be corrected by adding the word "rear" before the word "roof" in **SCHEDULE 2** and varied by deleting the word "original" from STEP 2 in **SCHEDULE 4**.
2. Subject to that correction and variation, the appeal is dismissed and the enforcement notice is upheld.

## **The appeal site and the enforcement notice**

3. The appeal property stands next to the junction between Acton Lane and Baker Passage, a pedestrian thoroughfare. It is a wide, two-storey building with further accommodation in the roof partly facilitated by a rear roof extension. The enforcement notice excludes the shop (known as "Bridge Food") on part of the ground floor.
  4. Insofar as the alleged unauthorised operational development is concerned, the enforcement notice would be made clearer if the word "rear" appeared before
-

the word "roof" in the alleged breach of planning control. This would also match the wording adopted in the corresponding requirement at STEP 2. In that same step, the word "original" should be omitted, otherwise it might produce an excessive requirement if the roof's original condition (if it could ever be determined) was not the same as its condition immediately before the unauthorised operational development took place. As no injustice would be caused to the parties, I have corrected and varied the notice to address these two issues.

### **The grounds of appeal**

5. On the original appeal form, a tick was placed against ground (a), that planning permission should be granted for what is alleged in the notice. However, the fee payable for the deemed planning application, which accompanies an appeal on ground (a), was not received by the Council within the specified period. Thus, the appeal proceeds on ground (g) only and the planning merits of the developments being enforced against are not before me.

### **The appeal on ground (g)**

6. The issue under this ground is simply whether the time allowed for compliance with the enforcement notice falls short of what should reasonably be allowed. A period of six months has been given in the notice.
7. On behalf of the appellant, it was reported that a registered owner of the property (Mr Jarnail Singh Bhutta) has sadly passed away. He was also one of the recipients of the enforcement notice. His family is dealing with the matter of probate. The request under ground (g) is that a maximum amount of time be given to deal with the requirements of the enforcement notice. However, no specific compliance period is actually proposed.
8. The stated harm in the reasons for issuing the enforcement notice caused by the unauthorised material change of use and operational development must have persisted since at least August 2014 when the property was first investigated by the Council. I am also mindful that about 12 months have elapsed since the appeal was first submitted, with enforcement action being effectively suspended. Therefore, as the compliance period will begin again from the date of this appeal decision the appellant will effectively have had about 18 months to carry out the steps required to comply with the enforcement notice.
9. I have not been provided with dates relating to when the probate procedure began or might be concluded. There is no clear indication given of an alternative compliance period that the appellant considers would be more reasonable. Apart from the matter of probate, the appellant does not argue that a period of six months would provide insufficient time to comply with the requirements of the notice in themselves. This period should provide sufficient time for any remaining occupiers to find alternative living accommodation, for the appointment of contractors and for the carrying out of the remedial works.
10. It is desirable that the breach of planning control should be remedied without unnecessary delay in order to address the harm that arises from it. On the evidence available to me, I consider that a period of six months provides sufficient time to comply with the requirements of the notice. Should any

difficulties arise the Council has the option to extend the compliance period, at its own discretion on the basis of any such evidence as may be provided, using its power under section 173A (1) (b) of the 1990 Act as amended. The Council says that this power is frequently exercised when it is clear that it is expedient to do so.

11. Taking into account all the above and all other matters raised in the written representations, I conclude that the appeal on ground (g) should not succeed. The enforcement notice is upheld as corrected and varied.

*Andrew Dale*

INSPECTOR