
Appeal Decision

Site visit made on 18 April 2018

by Roy Merrett BSc(Hons) DipTP MRTPI

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

Decision date: 23 May 2018

Appeal Ref: APP/Y5420/C/17/3180543

The Springfield Bar & Grill, 133 Bounds Green Road, London N11 2PP

- 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 Gerry Grealis, Corfton Properties Ltd against an enforcement notice issued by the Council of the London Borough of Haringey.
 - The enforcement notice was issued on 3 July 2017.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a 3 storey extension with mansard roof extension and conversion to 19 self-contained flats.
 - The requirements of the notice are to 1. Cease the use of the upper floors as flats;
2. Remove all fixtures and fittings facilitating the use of the upper floors as flats and
3. Remove from the land all resultant debris carrying out steps 1 and 2 above.
 - The period for compliance with the requirements is six months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2) (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matter

2. The site visit scheduled to take place on Wednesday 18 April 2018 was not attended by the appellant. However, following contact with the appellant's agent and the Council I was able to proceed on the basis of an unaccompanied site inspection.

The appeal on ground (c)

3. The ground of appeal is that the matter alleged does not constitute a breach of planning control. There is no dispute between the Council and appellant that planning permission was granted by the Council at the appeal site for, amongst other things, the erection of a 3 storey extension including mansard roof and the conversion of the building into 8 self-contained flats¹. There is also broad agreement that the physical works to the exterior of the building have been undertaken in accordance with that planning permission. Finally the Council and appellant agree that the building has actually been converted to provide nineteen flats, rather than the eight that were subject to the planning

¹ Ref HGY/2012/2343

permission. There is no dispute that the works undertaken would require planning permission.

4. The appellant has claimed that the alleged unauthorised development was in place from September 2013 which coincides with the date of the aforementioned planning permission. From the information before me I am satisfied, on the balance of probability, that the 8 flat scheme was not implemented. Rather a 19 flat scheme was implemented which, despite the Council taking no issue with the external construction works, was nevertheless not in accordance with the planning permission. Accordingly the development as a whole, alleged in the notice, is without planning permission.
5. The appeal on ground (c) therefore fails.

The appeal on ground (f)

6. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve the purpose. The purposes of an enforcement notice are set out in s173 of the Act and are to remedy the breach of planning control (s173 (4) (a)) or to remedy injury to amenity (s173 (4) (b)). The Council expressly states that it requires steps to be taken to remedy the breach of planning control.
7. Since the requirement is to cease the use and to remove all fixtures and fittings facilitating the use of the upper floors as flats, but not to address the erection of the three storey extension, it is evident that the Council is seeking to under-enforce. In accordance with s173 (4) (a) of the Act it is seeking to remedy the breach through discontinuing the use of the extended part of the building.
8. The appellant raises the concern that the enforcement notice is excessive because the envelope of the building has been built in accordance with the planning permission. However the notice does not require any works to be undertaken with respect to the envelope of the building. It would not be possible to revert to a scheme of 8 flats because as I previously concluded, on the balance of probability, the 8 flat scheme was not implemented. Aside from this the appellant has not specifically stated the lesser steps that they consider ought to be taken in order to address the requirements of the notice.
9. For the above reasons the appeal on ground (f) therefore fails.

The appeal on ground (g)

10. The ground of appeal is that the time given to comply with the requirements is too short. The appellant raises the concern that the flats are let on assured short hold tenancies for up to a year and that it would be impractical to evict and rehouse tenants within the requisite 6 month compliance period. However I have not been provided with any documentary evidence setting out the tenancy arrangements in place, or why it would be impractical to rehouse tenants within the given period. Furthermore, regarding the Council's point that a standard assured short hold tenancy agreement allows for a 2 month notice period to be given, the appellant has not set out evidence of why this could not be achieved.
11. The enforcement notice which will be upheld will interfere with the tenants' rights under Article 8 of the Human Rights Act 1998, which states that everyone has a right to respect for private and family life, their home and

correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. I conclude, taking into account the Council's reasons for issuing the notice and the aforementioned considerations, that the time available to tenants to seek alternative accommodation would be reasonable and would not result in a disproportionate burden.

12. For the above reasons the appeal on ground (g) therefore fails.

Conclusion

13. For the reasons given above I conclude that the appeal should not succeed.

Roy Merrett

INSPECTOR