
Appeal Decision

Site visit made on 10 July 2019

by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 30 July 2019

Appeal Ref : APP/N5660/C/18/3209228

Land at 67 Brading Road, London, SW2 2AP

- 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 Mohammed Usman against an enforcement notice issued by the Council of the London Borough of Lambeth.
- The notice was issued on 9 July 2018.
- The breach of planning control as alleged in the notice is without planning permission the conversion of the premises from a single dwellinghouse into five flats, two located at ground floor level, two located at first floor level and one located within the converted roof area ('the five unauthorised flats').
- The requirements of the notice are a) cease the use of each of the five unauthorised flats, b) remove from the premises all internal partitions and divisions, all but one set of kitchen units, appliances and associated plumbing and electrical wiring from the premises and any other fixtures and fittings that facilitate the use of the five unauthorised flats, c) remove all associated waste and debris resulting from compliance with the above steps from the premises.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2) (d) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: the appeal is dismissed and the enforcement notice is upheld

Preliminary Matter

1. The appeal form lodged an appeal under ground (a) but during the course of the appeal correspondence has confirmed that the appeal will proceed under ground (d) only. I shall determine the appeal accordingly.

Ground (d) appeal

2. This ground of appeal is that, at the date when the notice was issued, it was too late to take action. Section 171B(2) of the 1990 Act, as amended, provides that for a change of use of any building to use as a single dwellinghouse no enforcement action may be taken after the end of the period of four years beginning with the date of the breach. As 'building' includes part of a building this covers the conversion of a building to flats. In this case the relevant period commences on 9 July 2014.
3. The Appellant relies on evidence submitted in support of an application for a certificate of lawful use or development (ref 18/03496/LDCE) with respect to existing use of the property as 5 self-contained flats which was refused by

decision dated 9 October 2018. The reason for refusal was that the submitted evidence was insufficient to justify the issue of a certificate.

4. The Appellant's evidence includes copies of tenancy agreements but they do not cover the five flats for the relevant four year period. The Building Control and electrical documentation provided does not make reference to individual flats and is not consistent with the tenancy agreements. Only one of the service notes covers the relevant period and this is unsigned and refers to 5 boilers and 2 smoke alarms. The statutory declarations before me lack detail and do not indicate that the premises were occupied as 5 flats throughout the relevant period. There is no utilities information or evidence direct from tenants before me.
5. The Appellant's evidence does not need to be independently corroborated in order to be relied on but it does need to be precise and unambiguous. In this case the evidence does not show that the property has been used continuously without significant interruption as five flats for the relevant period. The evidence is imprecise and inconsistent. The Council tax and electoral role records whilst not conclusive do not support the Appellant's claim.
6. From the evidence before me I find, on the balance of probabilities, that the unauthorised change of use did not take place more than four years before the issue of the notice. It was therefore not too late to take enforcement action. Consequently, the appeal fails.

Formal Decision

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

S. Prail

Inspector