



Appeal Decision

Site visit made on 17 September 2019

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 October 2019

Appeal Ref: APP/K3605/C/18/3216390

Land at 59 Bridge Road, East Molesey, Surrey KT8 9ER

- 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 Ms Sahereh Sasa Bogue against an enforcement notice issued by Elmbridge Borough Council.
 - The enforcement notice was issued on 16 October 2018.
 - The breach of planning control as alleged in the notice is within the last 4 years and without planning permission, the material change of use of the basement from beauty salon to a residential dwelling.
 - The requirements of the notice are:
 - (a) Cease the residential use of the basement
 - (b) Remove all bathroom and kitchen fittings and appliances from the basement
 - (c) Remove from the Land any resultant waste associated with fulfilling the requirements of (a) and (b).
 - The period for compliance with the requirements is three (3) calendar months from the date on which this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.
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Decision

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

Preliminary Matters

2. The appeal was made on grounds (a) and (f). However, ground (a) was withdrawn during the course of the appeal. I have proceeded to determine the appeal on ground (f) alone.

The Appeal on Ground (f)

3. An appeal on this ground is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. In this case, the requirements seek to stop the residential use of the basement and require the removal of bathroom and kitchen fittings and appliances in the basement in order to remedy the breach of planning control.
4. I note that the appellant has not sought to seek changes to the notice insofar as it relates to ceasing the residential use. On my site visit it was clear that the residential use of the basement has ceased and it was in use as a beauty salon.

However, they suggest that bathroom and kitchen fittings and appliances are useful for the beauty salon and alternative lawful uses. I need not consider what other lawful uses may be possible, as I am only concerned with the alleged use as a residential dwelling. For ground (f) to succeed it is necessary to show that the requirements are excessive to remedy the breach. A notice directed at a material change of use may require the removal of works that facilitate that use. In this case, there is no suggestion that the kitchen and bathroom facilities now in place already existed in the areas they are prior to the change of use taking place. Accordingly, the requirement to remove them is not excessive, irrespective of whether they may be useful to keep for the salon.

5. There is no evidence to suggest that, following compliance with the notice the appellant would simply reinstate the bathroom and kitchen in association with the salon use such that the requirement may be considered to serve no useful purpose.
6. For these reasons, I conclude that the requirements to remove the kitchen and bathroom fittings and appliances do not exceed what is required in order to remedy the breach of planning control. As such, the appeal fails on ground (f).

Conclusion

7. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

AJ Steen

INSPECTOR