



Appeal Decision

Site visit made on 16 September 2019

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2019

Appeal Ref: APP/T5150/C/18/3217331
421B Kingsbury Road, London NW9 9DT

- 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 Kish Kotecha against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice was issued on 24 October 2018.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the premises to a House in Multiple Occupation (HMO). ("the unauthorised change of use")
 - The requirements of the notice are: STEP 1 Cease the use of the premises as a House in Multiple Occupation (HMO), ensuring that there are NO MORE than SIX beds in the premises. STEP 2 Remove all kitchens and cooking facilities, except ONE, from the premises and remove all associated items, debris and materials arising from this removal from the premises. STEP 3 Remove all bathrooms and bathroom facilities, except TWO, from the premises and remove all associated items, debris and materials arising from this removal from the premises. STEP 4 Remove all partition walls, facilitating the unauthorised change of use from the premises, and remove all associated items, debris and materials arising from this removal from the premises, so that the layout of the premises is returned back to a single family dwellinghouse, with the same layout before the unauthorised change of use took place.
 - The period for compliance with the requirements is: 4 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (b) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Summary of Decision

1. The appeal is dismissed.

Procedural Matter

2. The parties were notified in advance of my intended site visit however neither the appellant nor a representative on his behalf were in attendance. I consequently proceeded with an unaccompanied site visit. Given the ground of appeal pleaded and that the appellant¹ did not consider it essential for me to enter the site to check relevant facts, I do not consider that injustice arises from determining the appeal on this basis.

¹ Enforcement Notice Appeal Form, dated 28 November 2018

The ground (b) appeal

3. For the ground (b) appeal to succeed the onus is on the appellant to demonstrate, on the balance of probabilities, that the alleged breach of planning control, namely the material change of use of the premises to a House in Multiple Occupation (HMO), has not occurred as a matter of fact.
4. The appellant states that the property consists of two-bedrooms and was rented to two people from 9 January 2018, although it has been vacant since June 2018. No building works or alterations have been undertaken. Aside from this, the appellant's evidence is scant.
5. On 24 May 2018 an unannounced joint inspection by the Metropolitan Police and Brent Council's Licensing Team was carried out. They found that it comprised three-bedrooms, as the living room was used as a bedroom, and that there were more than 15 people living at the premises.
6. In light of the Council's detailed evidence, and the paucity of the appellants evidence, I have not been persuaded on the balance of probabilities that the use as an HMO did not occur as a matter of fact. Furthermore, even if the use was not subsisting on the precise date the enforcement notice was served, the available evidence is that the last use of the premises was the unauthorised use, which became the subject of the enforcement notice, and so it remained open to the Council to take the enforcement action.

Conclusion

7. On the balance of probabilities, the appellant has not substantiated that the breach of planning control alleged in the enforcement notice has not occurred as a matter of fact. Consequently, the appeal on ground (b) must fail.

Formal Decision

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

Paul T Hocking

INSPECTOR