



Appeal Decision

Site visit made on 15 October 2019

by Simon Hand MA

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

Decision date: 28 October 2019

Appeal Ref: APP/T5150/C/18/3214533 138 Anson Road, London, NW2 6AU

- 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 B&BLeo Ltd against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice, numbered E/18/0259, was issued on 24 September 2018.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the former dwellinghouse to a short-term letting accommodation.
 - The requirements of the notice are STEP 1 Cease the use of the premises as short - term letting accommodation. STEP 2 Remove all equipment, materials, paraphernalia associated with the letting of accommodation and remove all associated items with the unauthorised use from the premises.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (b) and (g) 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. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Background to the Appeal

2. The appeal property was a large family home and the allegation is that it has been converted for short term lettings, in other words a hotel. The notice requires this use to cease and for any fixtures and fittings associated with the use to be removed. After the notice was issued the appellants applied for an HMO licence for up to 10 people, which was granted and some of their ground (a) appeal is that an HMO would be acceptable in this location. However, the issue of an HMO is not before me. The ground (a) can only apply to the matters alleged, which is short term letting accommodation. I therefore make no comment on whether an HMO would be acceptable or not.

The Appeal on Ground (b)

3. This ground is that the matters alleged have not occurred as a matter of fact. The appellant does not seem to dispute the fact that a lettings use was originally begun, but they say this did not make money so they reverted to letting on ASTs, in other words as an HMO. The Council have a considerable amount of evidence the lettings use did commence including advertisements on

various websites such as booking.com, running from April to September 2018, and over 200 reviews of the property making it clear beyond doubt it was used effectively as a B&B establishment by people visiting London for a day or so for leisure purposes or catching flights etc.

4. The appellant argues if it was used for short term lettings this use only subsisted for less than 90 days as allowed for by the amended Greater London General Powers Act (1973). No evidence has been provided to support this argument and it does not seem likely given the evidence provided by the Council. On the balance of probability the use as alleged did occur and the appeal on ground (b) fails.

The Appeal on Ground (a)

5. Policy CP21 of the Brent Core Strategy 2010 seeks to maintain a balanced housing stock in particular family sized homes. DMP 16 of the Development management Policies document seeks to resist the loss of housing
6. There would seem to be some confusion in the appellant's ground (a) arguments. The matter alleged is a material change of use from a dwellinghouse to short term letting accommodation. It is abundantly clear that use was in effect a B&B. This is not a residential use but one that falls within use class C1. Comparison with flatted development in the area is not therefore relevant and neither are arguments concerning an HMO use. The appellant also argues that this is merely an alternative form of non-self-contained housing development supported by CP21. CP21 makes it clear that non-self-contained accommodation should be to "meet identified needs". Examples of which are hostels for households without children, including key workers and students. Whatever was provided at No 138 it was not accommodation specifically aimed at those with identified needs and so is contrary to CP21.
7. Anson Road is within a residential area and is lined by large, mostly detached houses. The appellant argued many were flats and the further conversion of No 138 would fit into this pattern. Setting aside that the alleged use is not flats, I saw little evidence that there many flats in the road. Looking at doorbells and other door furniture it seemed there was only a single flat conversion in the immediate vicinity. There might well be a school and other commercial uses in the road, but it is predominantly residential, and during my site visit it had a quiet and very much a residential ambience.
8. The Council have provided a recent appeal decision¹ in Brent dealing with the differences between a 'hotel' use and an HMO or flats. I would agree the issues identified in that decision are similar here. The comings and goings of potentially large numbers of people at any time of the day or night are likely to be completely different from a residential use, where people tend to have a more structured and regular lifestyle. There is off-street parking for about three cars, and all the on-street parking I could see in the area was for residents only, with a limited amount of metred parking for up to 4 hours maximum stay. The PTAL rating of the area is 1b/2, at the lower end of the scale and visitors to the use would be much more likely to use private cars than if it were in a more locationally sustainable area. This is likely to lead to excessive manoeuvring on site as more cars were squeezed on as there would be nowhere else to park. These issues are all likely to sit uncomfortably within

¹ APP/T5150/C/17/3183116 issued 26 June 2018

a primarily residential area and have the potential to cause noise disturbance to local residents. It is difficult to see how appropriate management can be put in place to deal with this as the appellant suggests. Again they seem to be arguing for a large HMO use, rather than that alleged.

9. Taking all this together the development as alleged does result in the loss of a family dwelling contrary to DM16 and is contrary to CP21. There is the a strong potential for an increase in noise and disturbance through the comings and goings of people at all times of the day and night and because of a shortage of on-site parking contrary to DMP1. Nothing has been suggested that might overcome these problems or to weigh in the balance in favour of the appeal. The appeal on ground (a) fails.

The Appeal on Ground (g)

10. The appellant argues that many of the current residents are on 12-18 month ASTs with on break clauses and so cannot be removed within the 3 months. That as may be, but the use as alleged would seem to have already ceased and the house has been turned into an HMO for 14 people so no further time would seem to be needed. Whether the current use is lawful is a matter for the Council to determine, but I am only concerned with the short term lettings use. The appeal on ground (g) fails.

Simon Hand

Inspector