
Appeal Decision

Site visit made on 9 October 2019

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

an Inspector appointed by the Secretary of State

Decision date: 28 October 2019

Appeal Ref : APP/T5150/C/19/3219830

11 Wembley Hill Road, Wembley, London, HA9 8AF

- 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 Shree Superstore Ltd against an enforcement notice issued by the Council of the London Borough of Brent.
- The notice was issued on 28 November 2018.
- The breach of planning control as alleged in the notice is without planning permission the material change of use of the rear ground floor from retail unit to residential accommodation.
- The requirements of the notice are step 1 cease the use of the ground floor rear retail unit as residential accommodation; step 2 remove all bathrooms and kitchens and cooking facilities associated with the unauthorised use from the premises and step 3 remove all items, equipment, materials and debris associated with the unauthorised use from the premises.
- The period for compliance with the requirements is three 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.

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

Preliminary matter

1. In the absence of payment of the requisite fee the ground (a) appeal has lapsed. There is therefore no deemed application for planning permission before me and the planning merits of the development are not within my remit to consider.

Ground (b) appeal

2. This ground of appeal is that the alleged breach of planning control has not occurred as a matter of fact. The onus of proof rests on the Appellant and the test of evidence is the balance of probabilities.
3. The Appellant says that the rear part of the retail unit has not been used as living accommodation since June 2018. I saw at my site visit that it is being used for storage although a toilet and shower remain.
4. The Appellant does not need to provide independent corroboration in order for his version of events to be relied upon but the evidence must be precise and unambiguous. The Council produce photographs showing a shower room, kitchen and bedroom area together with miscellaneous items

consistent with residential use. The photographs appear to show the unit in residential use and the Appellant produces no evidence to the contrary.

5. The Appellant has not provided any evidence to demonstrate that a residential use has not occurred as a matter of fact. He does not deny the unauthorised use and confirms that it was taking place prior to June 2018. The cessation of the unauthorised use does not alter the fact that the unauthorised use occurred as a matter of fact.
6. For the reasons given above, this ground of appeal fails.

Formal Decision

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

S. Prail

Inspector