
Appeal Decision

Site visit made on 7 July 2020

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

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

Decision date: 14 July 2020

Appeal Ref: APP/N5090/C/19/3242572

Flat C, 1 Beechcroft Avenue, London NW11 8BJ

- 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 Nissim Levy against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The enforcement notice was issued on 31 October 2019.
 - The breach of planning control as alleged in the notice is the change of use of the property into a C4 House of Multiple Occupation (HMO).
 - The requirement of the notice is cease the use of the property as a House in Multiple Occupation.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed.

Reasons

The ground (a) appeal

2. Planning permission was granted in 1988 for the conversion of 1 Beechcroft Avenue to three flats, one at each floor level. The lower two floors remain in use as flats whilst the upper floor is in use as an HMO. It is this four person HMO that is the subject of the enforcement notice. The main issue is the impact of the HMO use on the amenities of neighbouring residents.

The main issue

3. The Appellant has referred to a successful appeal at 5 Beechwood Avenue for a development that included, amongst other things, use of part of the property as a four room HMO. The significant difference between the two cases is that at no. 5 the HMO is at ground floor level and at the appeal property it is at second floor level. Residents of the HMO must therefore climb two flights of stairs to reach their accommodation. These staircases adjoin the flats in the lower two floors of the property. Policy DM04 of Barnet's Local Plan (Development Management Policies) requires, amongst other things, that proposals to locate development that is likely to generate unacceptable noise levels close to noise sensitive uses will not normally be permitted. The flats at the lower floor levels are noise sensitive uses.
4. The residents of the HMO will walk up and down the two staircases significantly more than if they were a family or living together as a family. Activity on the staircases has the potential to cause noise and disturbance for current and

future residents of the two flats at lower floor levels. The HMO use of the second floor of the appeal property is likely to generate unacceptable noise levels close to noise sensitive uses, is therefore detrimental to residential amenity, and conflicts with policy DM04 of Barnet's Local Plan (Development Management Policies).

Other matters

5. The HMO use of the second floor of the appeal property, compared to the lawful residential use as a flat, does not have a detrimental effect on the character of the area. The demand for HMO accommodation, as stated in an Estate Agent's letter submitted in support of the appeal, is recognised but there is also equally likely to be a demand for flat accommodation. The PTAL rating of the location is also recognised but applies to the property irrespective of its specific residential use. Neither these nor any other matters mentioned in support of the appeal outweigh, either individually or collectively, the conclusion on the main issue.

Conclusion

6. The HMO use of Flat C at 1 Beechwood Avenue, London is likely to generate unacceptable noise levels in the flats at the lower floor levels, and is thus detrimental to residential amenity. The ground (a) appeal thus fails.

The ground (g) appeal

7. The Appellant claims that "The tenants...have assured shorthold tenancy agreements" but has not submitted these tenancy agreements in evidence. Such agreements are usually for six months and even if a tenant of the HMO signs an agreement immediately before the enforcement notice comes back into effect the compliance period of six months could be achieved. The provisions of the Housing Act are noted but do not justify a conclusion other than that the compliance period of six months is a reasonable period. The ground (g) appeal thus fails.

John Braithwaite

Inspector