



Appeal Decision

Site visits made on 20 and 24 July 2020

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 05 August 2020

Appeal Ref: APP/G5750/C/19/3235773

Land at 5 Reginald Road, Forest Gate, London E7 9HS

- 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 Vinod Puri against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice was issued on 5 July 2019.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use of a part of the property to the rear of the ground floor to form a self-contained unit of residential accommodation.
 - The requirements of the notice are to:
 1. Cease the use of the part of the property to the rear of the ground floor, as shown in the approximate location edged in blue in the plan attached to the notice, as a self-contained unit of residential accommodation.
 2. Remove all kitchen and bathroom facilities from the part of the property to the rear of the ground floor, as shown in the approximate location edged in blue in the plan attached to the notice.
 3. Remove from the site all debris arising from compliance with steps 1 and 2.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (b) (e) and (g) of the Town and Country Planning Act 1990 as amended (the Act). 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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Decision

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

Procedural Matter

2. The part of the property to the rear of the ground floor, as shown in the approximate location edged in blue in the plan attached to the notice, was locked on my site visits and the appellant's representative was not able to provide access. I could not otherwise see inside the relevant part of the property as its windows were screened from external views.
3. Notwithstanding the above, I am of a view that I have sufficient information and evidence from the appeal submissions upon which to make a decision and accordingly I am proceeding on that basis. I have informed both main parties of this.

Ground (e)

4. For an appeal to be successful under this ground, the appellant must satisfy me on the balance of probabilities that copies of the enforcement notice were not served as required under section 172 of the Act.
5. The appellant says that he was served with a copy of the notice at his old address and that as a result he received it late. He also says that the freeholder was not served with a copy. The Council has provided evidence by way of a Certificate of Service showing that both the appellant and the freeholder were served with a copy of the notice on 5 July 2019 at addresses obtained through the Land Registry. There is no evidence that I have seen that the Council was aware of an alternative address for the appellant. Accordingly, copies of the notice were served in accordance with section 172 of the Act within 28 days of issue and not less than 28 days before its effective date.
6. Therefore, the appeal under ground (e) fails.

Ground (b)

7. For an appeal to be successful under this ground, the appellant must satisfy me on the balance of probabilities that the matters stated in the notice have not occurred.
8. The appellant has provided a range of documents from 2014-2015 which indicate that the part of the property to which the notice relates was either in use for storage or was empty at the time those documents were created. I accept that evidence. In particular I note the email sent from the Council on 27 April 2015 confirming that the relevant part of the property, while not occupied by the tenant of the ground floor flat, did not constitute a separate dwelling and that it had no cooking facilities or fixed kitchen sink.
9. Notwithstanding the above, I also accept evidence from the Council that an enforcement site visit in October 2015 found that the rear section of the ground floor flat had as a matter of fact been partitioned off to create a separate unit with a small kitchenette (albeit unoccupied at the time of the inspection). I also place significant weight on the evidence submitted by the Council that an unannounced site visit undertaken with the police on 26 June 2019 confirmed that the part of the property subject to the notice was separately occupied by a single tenant who reported that he had been living there since approximately October 2016. The rough plan drawn by the case officer in his report dated 1 July 2019, following the visit, shows that the self-contained accommodation had been provided with a WC and shower as well as a kitchenette.
10. Therefore, on the balance of probabilities, I find that there had been a material change of use of a part of the property to the rear of the ground floor to form a self-contained unit of residential accommodation. Accordingly, the appeal under ground (b) fails.

Ground (g)

11. In order for an appeal to be successful under this ground, I must be satisfied that the period specified to comply with the notice requirements falls short of what should reasonably be allowed.

12. The appellant says that the period of three months to comply with the notice is too short but does not explain why. In my view, and in the absence of any substantive case put forward by the appellant, this time is a reasonable period in which to remove the facilities mentioned in the notice and otherwise comply with all requirements. Accordingly, the appeal under ground (g) fails.

Conclusion

13. For the reasons given above I consider that the appeal should not succeed.

Andrew Walker

INSPECTOR