



Appeal Decision

Site visit made on 1 September 2020

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 September 2020

Appeal Ref: APP/U5360/C/19/3222758

14 Grosvenor Way, Hackney, London E5 9ND

- 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 Avigdor Ezrial Brinner against an enforcement notice issued by the Council of the London Borough of Hackney.
 - The enforcement notice was issued on 14 January 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use from an office use (class B1) to a mixed use comprising office use (class B1) and six self-contained flats (class C3).
 - The requirements of the notice are:
 - Cease the use of the property as self-contained flats;
 - Remove all internal partitions, doors, facilities, kitchen and bathroom fixtures and fittings that facilitate the use of the property as self-contained flats;
 - Make good all damage to the Property resulting from the removal of the unauthorised works; and,
 - Removal all materials, debris, waste and equipment resulting from compliance with the other requirements of the notice from the property and its premises.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) 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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Decision

1. The appeal is allowed on ground (g), and it is directed that the enforcement notice be varied by the deletion of 6 months and its substitution with 9 months as the period for compliance. Subject to this variation the enforcement notice is upheld.

Reasons

The ground (f) appeal

2. Under section 173(4) of the above Act, when serving an enforcement notice the Council may seek to (a) remedy the breach of planning control by, for example, discontinuing any use of the land or by restoring the land to its condition before the breach took place, or (b) remedy any injury to amenity which has been caused by the breach. The Council states that the notice remedies the breach. This is not disputed by the appellant. Given the notice requires the residential use to cease and the notice states the former use was office, I have no reason to disagree with the Council's position in this regard.

3. The appellant indicates that they obtained prior approval to convert the appeal property to 3 flats and asks that they be allowed to revert to that previous scheme. However, from the information available to me, that previous scheme was not implemented, it is not extant and it has lapsed so it cannot now be lawfully implemented. Therefore, there is no power for me to allow this suggestion as a lesser step that would achieve the purpose of the notice. Accordingly, the appeal on ground (f) fails.

The ground (g) appeal

4. There are tenants living in the appeal property. The appellant states it will take longer than 6 months to evict them. But no evidence has been provided to support this claim. However, in light of the effects of COVID-19, the Council considers it appropriate to extend the compliance period by 3 months. In the absence of evidence that longer than this is necessary, I am satisfied 9 months is what should reasonably be allowed to comply with the requirements of the notice. The appeal on ground (g) succeeds to this extent.

Conclusion

5. For the reasons given above I conclude that a reasonable period for compliance is 9 months, and I am varying the enforcement notice accordingly, prior to upholding it.

L Perkins

INSPECTOR