The Planning Inspectorate

Appeal Decision

Site visit made on 29 September 2020

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA

an Inspector appointed by the Secretary of State

Decision date: 15 October 2020

Appeal Ref: APP/V1260/C/19/3239417
68 Bennett Road, Bournemouth

- 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 David Bailey against an enforcement notice issued by Bournemouth, Christchurch and Poole Council
- The enforcement notice was issued on 16 September 2019.
- The breach of planning control as alleged in the notice is alterations and formation of a flat on the ground floor.
- The requirements of the notice are to cease the use of the flat on the ground floor and restore the layout of the ground and first floor of the building as shown on drawing reference 18/T3314/002B deposited under planning application reference 7-2018-12867-G.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(c), (e) and (f) 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.

Procedural Matters

1. The appellant's appeal form included a ground (a) but no fee was received, and the application has lapsed. In any case, I note that the planning situation has been considered recently at appeal.

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

Reasons

Ground (c)

3. The appellant argues that alterations are internal only and do not require planning permission and therefore should not be included in the notice.

4. However, it is clear that a new external door has been fitted and this materially affects the external appearance of the building, whether or not a window was in the same part of the elevation. In any case, any works that are part and parcel of the unauthorised use, internal or external, whether they require planning permission or not, may be included in the enforcement notice if they are part and parcel of, and enable the use.

5. Clearly the internal alterations that have been undertaken were part and parcel of the conversion of the building to enable the separate ground floor flat. It is therefore reasonable that the Council should require their removal. The appeal fails on ground (c).

Ground (e)

6. The appellant says he believes the co-owners of the property were not served with the notice. The two entrances of the flats are clearly identified and the Council's enforcement officer remembers serving the notice to both flats on the 16 September 2019 by putting a copy of the notice with explanation through the letter boxes in the doors of both flats. The covering letter is provided as part of the Council's evidence. The occupiers of Flats 1 and 2 are also identified on the enforcement notice. There is little evidence for the appellant's belief that the notice was not served correctly, and in the light of the Council's own evidence is not sufficient on the balance of probability to show it was not served correctly. The appeal on ground (e) fails.

Ground (f)

7. The use of the building is unauthorised and the associated work is part and parcel of that unauthorised use. It is reasonable that the Council should require that the use is ceased and all works enabling the use are removed. There is nothing to show which works are required to be retained, but if the appellant requires to keep some of the works for use with the resulting building the Council should be approached in the usual way and permission obtained, but the notice reasonably requires their removal within 6 months. The appeal on ground (f) fails.

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

Graham Dudley

Planning Inspector