



Appeal Decision

Site visit made on 6 October 2020

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

an Inspector appointed by the Secretary of State

Decision date: 22 October 2020

Appeal Ref: APP/Y5420/C/20/3247559

Elco House, 22-24 Homcroft Road, London N22 5EL

- 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 Edmond Levy (ESL Properties Ltd) against an enforcement notice issued by the Council of the London Borough of Haringey.
 - The enforcement notice was issued on 22 January 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the ground floor to a mixed use comprising 8 self-contained flats and warehouse/storage and distribution.
 - The requirements of the notice are to:
 1. Cease the use of the ground floor for residential purposes;
 2. Remove from the ground floor all kitchens and any internal dividing doorways and partitioning facilitating the use of the property as self-contained flats;
 3. Remove from the site all debris arising from compliance with steps 1 and 2.
 - The period for compliance with the requirements is 6 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 (the Act). Since the prescribed fees have 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 fall to be considered.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matters

2. The site has a planning history including prior approval and certificate of lawfulness (LDC) refusals by the Council. These are not the appeals before me. I am determining this appeal, in respect of ground (a), on its merits and in accordance with the Council's development plan unless material considerations indicate otherwise (Planning and Compulsory Purchase Act 2004, s38(6)).
3. The appellant has said that the Council has not specified in the enforcement notice how the appeal site should be used in future. However, while a notice may require the discontinuance of a use (Section 173 of the Act) it cannot require land to be used in a specified way.

Ground (a) and the deemed planning application

Main issue

4. The main issue in this appeal is the effect on the development on the living conditions of its current and future occupiers, as regards space and outlook.

Reasons

5. The internal floorspace of each 1-person flat is significantly below that laid out as a minimum standard in the London Plan (2016) (LONP), and notwithstanding that facilities within otherwise appear to be of a good standard, I do not consider that there is sufficient space internally for healthy living taking into account the need for living and circulation space as well as a reasonable amount of furniture. The harm is accentuated by an absence of private external amenity space for use by the occupiers, notwithstanding outside cycle storage provision which I observed on my site visit.
6. Further, the mainly single-aspect windows from each flat provide an outlook onto a passageway with a close boundary treatment on its opposite side comprised of brick walls or close-boarded fencing. This causes an oppressive sense of enclosure to the occupiers of the flats, which exacerbates the negative psychological effect created by the deficit of internal space.
7. For these reasons, the appeal development causes significant harm to the living conditions of current and future occupiers. As such it is in conflict with Policies DM1 and DM12 of the Haringey Development Management Development Plan Document (2017), Policy SP2 of the Haringey Local Plan Strategic Policies 2013-2026 (2013) and Policy 3.5 of the LONP which together seek to deliver quality housing and protect living conditions. The appeal under ground (a) accordingly fails.

Ground (g)

8. To succeed under this ground, the appellant must satisfy me that the period for compliance specified in the notice falls short of what reasonably should be allowed.
9. The appellant suggests 12 months is reasonable as he says that the tenants have 12-month agreements. However, no evidence has been submitted of the tenancy agreements to substantiate this and I find that the 6-month compliance period set out in the notice is reasonable for the use to cease and for the occupants to look for alternative accommodation.
10. The appeal under ground (g) therefore does not succeed.

Human Rights

11. Article 8 of the First Protocol to the European Convention on Human Rights, as incorporated into the Human Rights Act 1998, is engaged due to potential loss of a home for the appeal site's occupiers due to conflict with planning policies. Therefore, I have undertaken a proportionality assessment and considered whether the objectives of the planning policies could be met by a less intrusive action. However, the policies with which there is conflict in this appeal seek to protect the occupiers of residential dwellings from sub-standard accommodation and their objective cannot otherwise be achieved other than ensuring that minimum standards are met. The effect of the policies is to benefit the interests and well-being of persons occupying dwellings, and the implementation of their requirements in respect to the appeal property would not be excessive or disproportionate taking all into account.

Conclusion

12. For the reasons given above I conclude that the appeal should not succeed.
I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Andrew Walker

INSPECTOR