



Appeal Decision

Site visit made on 1 December 2020

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2020

Appeal Ref: APP/U5930/C/20/3252670

3 Gloucester Mews, Gloucester Road, London, E10 7DZ

- 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 Mrs Sara Perlberger on behalf of Pearlap Limited against an enforcement notice issued by the Council of the London Borough of Waltham Forest.
 - The enforcement notice was issued on 24 April 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission;
 1. The material change of use of a single dwellinghouse into two studio flats.
 - The requirements of the notice are:
 1. Cease the use of The Land as two studio flats
 2. Remove all means of sub-division from The Land that facilitates the use two studio flats, including partition walls and internal door divisions between the ground floor and first floor;
 3. Remove the additional kitchen including sink, cookers, washing machines, fridge freezers and other kitchen related accessories, fixtures and fittings so that only one kitchen remains:
 4. Remove the additional bathroom including sinks, toilets and showers and any other related accessories, fixtures and fittings so that only one bathroom remains:
 5. Remove all resulting materials, rubble and general detritus from The Land following compliance with requirements 1 - 4 resulting from the works.
 - The period for compliance with the requirements is 9 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. It is directed that the enforcement notice be:
 - corrected by inserting a 'semi-colon' (";") at the end of the requirement 1;
 - corrected by deleting the 'colon' (":") at the end of the third requirement and its replacement with a 'semi-colon' (";");
 - corrected by deleting the 'colon' (":") at the end of the fourth requirement and its replacement with a 'semi-colon' and the word 'and' ("; and"); and
 - varied by deleting the words "Nine (9) months" within section 6 (Time for Compliance) and its replacement with "twelve (12) months".

2. Subject to these corrections and a variation, the appeal is dismissed, and the enforcement notice is upheld.

Procedural Matters

3. I have a duty to ensure that the notice is in order. The requirements in the enforcement notice are poorly worded in so far as it either lacks punctuation or has the incorrect punctuation at the end of requirements 1, 3 and 4. My understanding of the notice is not affected by these minor errors and nothing within the appellant's submissions indicates to me that it has been misunderstood by them as a result. Therefore, I consider that these minor corrections are therefore necessary which can be achieved by using my powers under s176(1)(a) of the Act without causing injustice.
4. I have also dealt with another appeal (Ref: APP/U5930/C/20/3252669) on a neighbouring site. That appeal is the subject of a separate decision.

The appeal on Ground (f)

5. The appeal on this ground is "that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters (i.e. the matters alleged in the notice) or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".
6. In this case, the purpose of the enforcement notice is to remedy the breach of planning control. This is explicitly stated in section 4 (iv) of the notice, and, the requirements of the notice include the cessation of the use and, in effect, the restoration of the land to its former condition by the other requirements of the notice.
7. The appellant states the requirements of the notice are excessive since a flat can have more than one bathroom, and therefore suggests removing requirement 4. In effect, this would result in the retention of the two bathrooms which currently exist.
8. It is clear that the two bathrooms have sustained the unlawful use of the property as two flats. These facilities are part and parcel of the unauthorised use and should not be viewed in isolation as has been suggested by the appellant. Furthermore, no further evidence has been presented to demonstrate that the two bathrooms existed within the property before the unauthorised change of use took place. Notwithstanding that these facilities may not require planning permission in their own right, a notice directed at a material change of use, as is the case here, may require their removal. I am therefore satisfied the requirements of the notice do not exceed what is necessary to remedy the breach of planning control.
9. On this basis, the Ground (f) appeal fails.

The appeal on Ground (g)

10. The appeal on this ground is that any period specified in the notice falls short of what should reasonably be allowed. The appellant asks that the time for compliance is extended from 9 months to 12 months in order to provide sufficient time to evict current occupiers and provide them sufficient time to find alternative accommodation.

11. Current occupiers might find it difficult under current housing market conditions to find suitable accommodation, particularly in light of Government policy regarding Covid-19 and restricting social contact. I also acknowledge that all occupiers need to vacate the premises in order to carry out the other requirements of the notice. I therefore consider that in the particular circumstances of this case, a 12 month compliance period is proportionate and reasonable. I shall therefore vary the period for compliance prior to upholding the notice to 12 months.
12. To this extent, the ground (g) appeal succeeds and I will vary the notice accordingly.

Conclusion

13. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and a variation.

R Satheesan

INSPECTOR