



Appeal Decision

by Elizabeth Jones BSc (Hons) MTCP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 December 2020

Appeal Ref: APP/Y5420/C/20/3249517

Land and Building(s) known as 93 Granville Road, London N22 5LR

- 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 Company Nice Properties & Management Ltd against an enforcement notice issued by the Council of the London Borough of Haringey.
- The enforcement notice was issued on 18 February 2020.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use to a mixed use, comprising 3 self-contained flats and a small house in multiple occupation (C4 HMO).
- The requirements of the notice are:
 1. Cease the use of the property other than as a single family dwellinghouse.
 2. Remove all but one kitchen from the property.
 3. Remove all internal partitioning that facilitates the use of the property as three self-contained flats and a small HMO.
- The period for compliance with the requirements is six 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.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with variation.

The appeal on ground (f)

1. The appeal on ground (f) is that the steps required by the notice to be taken or the activities required by the notice to cease, exceed what is necessary.
2. The purposes of an enforcement notice are set out in Section 173(4) of the Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)). Since the notice requires the mixed use of the property to cease and the removal of all but one kitchen and all internal partitioning that facilitates the use of the property as three self-contained flats and a small HMO, the purpose of the notice is clearly to remedy the breach in its entirety rather than remedy injury to amenity by requiring some lesser steps to be taken.
3. No appeal has been brought on ground (a) and an appeal on ground (f) cannot be used to consider the planning merits or to bring about a deemed application for an alternative development. In these circumstances, the only point at issue under ground (f) is whether the enforcement notice's requirements exceed those necessary to remedy the breach of planning control alleged by the notice.
4. As there is no deemed planning application or ground (a) appeal, matters such as the size of the property and whether it is large enough to accommodate 6

rooms and a communal kitchen and bathroom for use as a small HMO are not before me. The enforcement notice is attacking the mixed use of the property as three self-contained flats and an HMO. Leaving the property in use as an HMO would not remedy the breach.

5. In order to remedy the breach of planning control, it is not excessive to require the mixed use of the property to cease and the removal of all but one kitchen and all internal partitioning that facilitates the mixed use of the property. I conclude that no lesser steps would remedy the breach of planning control that has occurred.
6. I consider the requirement to 'use the property as a single family dwellinghouse' goes beyond what is necessary to remedy the breach as a notice cannot require a former use to be resumed, it is sufficient to require the breach of planning control to cease. I will therefore vary the notice by deleting this part of the requirement. In addition, the breach of planning control is a mixed use. I will vary the requirement accordingly.
7. I am satisfied that I can vary the notice in this way, using the powers available to me by reason of s176(1) of the 1990 Act as amended, without causing injustice. The appeal on ground (f) succeeds to this limited extent.

The appeal on ground (g)

8. The appeal on ground (g) is that the time given to comply with the requirements of the notice is too short. The enforcement notice gives a compliance period of six months. The appellant's only argument under this ground of appeal is that the period of compliance should be extended to a minimum of one year because there are six tenants currently living in the property on an 'AST' and it will take a minimum of a year to evict them.
9. Since the appeal has been made on grounds (f) and (g) only, the appellant cannot have any expectation of the enforcement notice being quashed. By making this limited appeal, the date when the notice will come into effect has been delayed and the appellant will be aware that the requirements of the notice to cease the use will be upheld.
10. I therefore consider that six months from the date of this decision would be a reasonable time for compliance. If this reasonably proves not to be the case, as stated in the Council's statement, the appellant can ask the Council to extend the period specified in accordance with s173(9) in the notice using their powers under s173A(1) of the 1990 Act as amended. The appeal on ground (g) fails.

Formal Decision

11. It is directed that the enforcement notice is varied by the deletion of the words "Cease the use of the property other than as a single family dwellinghouse." in step 1 of paragraph 5 'What you are required to do' and the substitution therefor of the words "1. Cease the mixed use of the property."
12. Subject to this variation, the appeal is dismissed and the enforcement notice is upheld.

Elizabeth Jones

INSPECTOR