
Appeal Decision

by B.S.Rogers BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2021

Appeal Ref: APP/M5450/C/20/3255004
84 Bishop Ken Road, Harrow, HA3 7HR

- 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 E.Fernando against an enforcement notice issued by the Council of the London Borough of Harrow.
 - The enforcement notice was issued on 6 May 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the Land from use as a single family dwellinghouse to use as 2 separate self contained units.
 - The requirements of the notice are 1. Cease the unauthorised use; 2. Remove all kitchens except one from the Land; 3. Remove the entire bathroom from the side extension inclusive of the internal partitions that form the bathroom; 4. Create two new internal accesses between the side extension and the main dwellinghouse; 5. Remove the front access door to the side extension and brick up the resultant space. Make good any damage caused to the building as a result of this step and ensure that all materials used shall match those used in the existing building; 6. Remove from the land all materials and debris arising from compliance with the aforementioned requirements of the notice.
 - The period for compliance with the requirements is nine calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) & (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice be varied by:-

- i. The deletion of step 3;
- ii. The substitution for step 4 of "Create an internal access between the side extension and the main dwellinghouse".

Subject to these variations, the appeal is dismissed and the enforcement notice is upheld.

Preliminary matters

2. Because of the limited grounds of appeal and the ample photographic coverage provided of the site, it was agreed that a site visit was not needed in this case.
3. The appellant does not dispute the breach and has stated her intention to comply with the requirement of the notice to cease the use of the side extension as a flat and to integrate it back into being a part of the main dwelling.

The appeal on ground (f)

4. The Council has indicated that the purposes of the notice are to secure remedial works for the breach and to safeguard the amenities of the land and the locality. The appellant considers that steps 2, 3 and 4 exceed what is necessary to remedy these purposes.
5. The principal characteristics which support the breach are the physical separation of the side extension from the main house and the provision of all the facilities needed for independent living.
6. On the first of these matters, the appellant does not dispute the need for step 5, to remove the separate front door. However, whilst it is accepted that there needs to be an internal access between the side extension and the dwelling, it is submitted that step 4's requirement to provide **two** internal accesses is excessive. Having regard to the layout of the property, I agree. There is an obvious point of access from the hallway of the main house. However, a second doorway between the rearmost room in the extension, presently used as a bedroom, and the kitchen/dining room of the main house would make both these rooms less usable, with no clear benefit to the purposes of the notice. I consider a single internal access to be sufficient to address the breach.
7. Turning to the provision of facilities, the requirement of step 3 to remove the bathroom appears excessive to me. The bathroom in question is a very small room, containing a shower, w.c and washbasin. It adjoins the present bedroom in the extension and I see no reason why this shouldn't continue to serve this bedroom if that is the wish of the occupants of the main dwelling. It would not be uncommon to find multiple bathrooms or en-suites in a dwelling of this size.
8. The requirement of step 2 to remove all but one kitchen I regard as necessary. There appears to be no realistic need for two kitchens to serve a dwelling of this size, other than to support the use of the extension for independent living.
9. The appeal on ground (f) is successful to the extent that the notice will be varied by the deletion of step 3 and the variation of step 4.

The appeal on ground (g)

10. The appellant's case is based on the impact of the Covid-19 pandemic when the appeal was lodged in June 2020. For various reasons, more than a year has now passed and circumstances have now changed with regard to the protection afforded to tenants. Whilst I would not presume to predict the continuing impact of the pandemic, the compliance period of 9 months appears to me to be reasonable in the present circumstances. Should matters change for the worse, it remains open to the Council to extend the compliance period, if required. The appeal on ground (g) fails.

B.S. Rogers

Inspector