



Appeal Decision

Site visit made on 24 August 2021

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 06 September 2021

Appeal Ref: APP/Y5420/C/20/3257040

45 Suffolk Road, London N15 5RN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Erdal Duman against an enforcement notice issued by the Council of the London Borough of Haringey.
- The enforcement notice was issued on 25 June 2020.
- The breach of planning control as alleged in the notice is without planning permission the material change of use to 3 self-contained flats.
- The requirements of the notice are
 1. Cease the use of the property as self-contained flats;
 2. Remove from the property all but one of the kitchens, doorbells 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 five months.
- The appeal is proceeding on the grounds set out in section 174(2)(b) of the 1990 Act as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a correction in the terms set out below in the Formal Decision.

Preliminary Matter

1. The appeal has been made on ground (b), which is that the matters alleged have not occurred as a matter of fact. In this type of appeal, the onus of proof is firmly upon the appellant with the relevant test of the evidence being on the balance of probability.
2. The appellant simply states that - "It is alleged that there has been a material change of use to 3 self-contained flats. This is not the case at all neither has this ever been the case as far as I am aware. I believe the best course of action would be for the council to revisit the property in order to verify this fact."
3. The Council has confirmed that its officers were unable to gain entry to the premises to investigate the alleged breach, and there was no response to the subsequent planning contravention notices. Based on the evidence available at the time, the Council served the enforcement notice alleging a material change of use to three self-contained flats. However, it is acknowledged that there may, in fact, be two flats. The Council has invited me to correct the notice, using my powers under Section 176(1) of the 1990 Act, should I find this to be the case following my site visit.

4. The appeal relates to a two storey terraced property. I saw from my site visit that the premises was in use as two self-contained flats, one on each floor. Each flat had its own front door, Nos 45A and 45B, and within each unit there were personal washing and toilet facilities, along with fully equipped kitchens. Hence, each flat had the facilities required for day-to-day private domestic existence. In view of this, the correct allegation would be the material change of use to two self-contained flats.
5. The appellant was given the opportunity to provide information to the Council but chose not to respond to the planning contravention notices. It is apparent from the short statement provided that the appellant knows how many flats are contained within the premises. Moreover, the correction concerns only the number of flats, it would not go to the substance of the notice and would be limited to the correction of factual matters. The requirements remain unaffected. As such, I am satisfied that the correction can be made without injustice to either party.

Reasons

6. In order to succeed on an appeal on ground (b), the appellant must show on the balance of probability that the matters alleged, as corrected, have not occurred as a matter of fact.
7. The appellant has not provided any evidence in relation to this ground of appeal, other than rely on the fact that the Council thought there were three flats in the premises rather than two. This matter has been addressed through my powers of correction under s176(1).
8. Hence, I conclude that the appellant has not shown that the matters alleged, in the notice as corrected, have not occurred as a matter of fact. The appeal on ground (b) must fail, therefore.

Conclusion

9. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction.

Formal Decision

10. It is directed that the enforcement notice is corrected by the substitution of the number 3 with the number 2 before the words "self-contained flats" in paragraph 3. Subject to the correction, the appeal is dismissed and the enforcement notice is upheld.

Debbie Moore

Inspector