



Appeal Decisions

No Site Visit

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 May 2022

Appeal Ref: APP/T5150/C/21/3270560 (Appeal A) & 3270561 (Appeal B) 70A Grasmere Avenue, Wembley HA9 8TQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeals are made by Mrs Inderjit Roopra (Appeal A) and Mr Harbans Singh (Appeal B) against an enforcement notice issued by the Council of the London Borough of Brent.
- The notice was issued on 28 January 2021.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the premises from a house to a House in Multiple Occupation and for the storage and deposit of waste and building materials, and use as a builders' yard. ("the unauthorised change of use").
- The requirements of the notice are to:
 - STEP 1 Cease the use of the premises as a House in Multiple Occupation (HMO).
 - STEP 2 Cease the use of the premises as storage and deposit of waste and building materials.
 - STEP 3 Cease the use of the premises as builders' yard.
 - STEP 4 Remove all internal partitions, items, materials and debris associated with the unauthorised change of use, including the removal of ALL kitchens, en-suite bathrooms/shower rooms and toilets, except those shown in the plans A, B and C attached to this notice.
 - STEP 5 Restore the internal configuration to the original layout before the unauthorised change of use took place, as shown in the plans A, B and C attached to this notice. For the avoidance of doubt, this should include a kitchen/dining room, a separate lounge on the ground floor, 3 bedrooms on the first floor, a bathroom on the first floor and open space on the second floor.
 - STEP 6 Remove all materials, items, waste scrap and rubbish associated with the unauthorised use from the premises.
 - STEP 7 Remove all vehicles, equipment, materials and items associated with builders, and the construction industry.
- The period for compliance with the requirements is: 6 months.
- The appeals are proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.

Decisions

1. The appeals are dismissed and the enforcement notice is upheld.

Preliminary Matter

2. I have sought the parties' views as to whether the appeals can be determined without the need for a site visit. I have received no objection to this approach and am satisfied that the appeal can be determined on the evidence before me.
3. An enforcement notice has been issued in respect of the neighbouring property, 70 Grasmere Avenue. This enforcement notice is the subject of separate appeal decisions, reference APP/T5150/C/21/3270554 and APP/T5150/C/21/3270555.

Ground (f)

4. An appeal under ground (f) is made on the basis 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 or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. The notice confirms that the purpose is to remedy the breach of planning control.
5. Section 173(4) of the Act sets out the purposes of an enforcement notice are (a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place.
6. The appellant requests that the ground floor bathroom is allowed to remain as it would provide ground floor facilities for the occupants, especially the elderly. The appellant has not appealed under ground (a) and so I cannot consider planning merits. It is not disputed that the ground floor bathroom was installed as part of the unauthorised use as a House in Multiple Occupation (HMO).
7. The plans provided by the Council show that the premises was laid out with a living room, dining room, kitchen and hallway on the ground floor prior to the breach. Since the bathroom on the ground floor facilitated the unauthorised use, its retention would fail to restore the land to its condition before the breach took place and so would not remedy the breach. It is therefore not unreasonable or excessive to require removal of the bathroom on the ground floor and so the appeals under ground (f) must fail.

Conclusion

8. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice.

M Savage

INSPECTOR