



Appeal Decision

Site visit made on 22 June 2022

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 15 July 2022

Appeal Ref: APP/N5090/C/20/3266029

Land at 19 Ranelagh Drive, EDGWARE, HA8 8HJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Marius Solovastru against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The notice, numbered ENF/1063/20, was issued on 16 November 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the change of use of the property to a mixed use as a House in Multiple Occupation (HMO) and multiple self-contained flats, and the erection of bin stores at the front of the property.
 - The requirements of the notice are to: 1 Cease the use of the property as a mixed use as a House in Multiple Occupation and multiple self-contained flats. 2 Permanently remove all but one set of kitchen facilities from the property including kitchen units, cooking facilities, sinks and worktops. 3 Permanently remove all but one set of bathroom facilities from each floor of the property, including toilets, basins, baths and showers. 4 Permanently remove from the land the bin stores.
 - The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b) and (f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice is varied by: the deletion of requirement 3 and substitution with "Permanently remove from the property baths, showers, basins and toilets from all rooms other than a) those marked 'WC' and 'En-Suite' on drawing number LBA 3027R – 03/LB included as part of planning application reference 20/0397/RCU, approved at appeal on 9 October 2020 (reference APP/N5090/D/20/3251146) and b) those in the loft."
2. Subject to the variations, the enforcement notice is upheld.

Ground (b)

3. An appeal on this ground is on the basis that the matters stated in the notice to be a breach of planning control have not occurred. The appellant argues that the allegation in the notice is incorrect because the property is currently being used as a House in Multiple Occupation ('HMO') only and there are no self-contained flats.
4. However, section 174(b) of the 1990 Act is worded in the past tense and the question to be considered is whether the breach had occurred by the date of the issue of the notice. The appellant accepts that some of the rooms were self-contained during the inspection by the Council on 14 October 2020, prior to the issue of the enforcement notice, and that they included full kitchen and bathroom facilities. As some of the units contained all of the facilities

necessary for day to day domestic existence, they did constitute separate dwellings in accordance with caselaw. It is also accepted by the appellants that at least one of the rooms relied solely on the shared kitchen facilities which were available for use by all of the units. Part of the property therefore also constituted an HMO.

5. The allegation in the notice is therefore accurate as it described the arrangement in the property at the time that the Council inspected it and the appeal under ground (b) cannot therefore succeed.

Ground (f)

6. A ground (f) appeal is that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control which may be constituted by the matters stated on the notice, or as the case may be, to remedy any injury to amenity which has been caused by such breach. The purpose of this notice is to remedy the breach of planning control and it seeks to return the property to its previous use, i.e. that of a single dwellinghouse.
7. A single dwellinghouse would not normally contain an ensuite bathroom for each bedroom, including the three bedrooms on the ground floor. Whilst the removal of the additional kitchens prevents the use of the property as self-contained flats the ensuite bathrooms were installed for the purposes of facilitating the unauthorised use and their removal would help to restore the land to its previous use.
8. However, it would be reasonable to allow for the upstairs ensuite bathrooms and downstairs WC to be retained. These lesser steps would reflect an extant planning permission for the property, and would still be proportionate in the sense of being the minimum necessary to remedy the breach (the material change of use). Whilst this permission does not include the attic floor of the house it would be proportionate for the bathroom in the attic to remain also.
9. For the reasons given above, I conclude that the requirements are excessive to remedy the breach of planning control. I shall vary the enforcement notice in the way suggested by the Council prior to upholding it. The appeal on ground (f) succeeds to that extent.

Zoë Frank

INSPECTOR