



Appeal Decision

Site visit made on 11 July 2022

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2022

Appeal Ref: APP/T5150/C/20/3245151

762 North Circular Road, London NW2 7TD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Joseph Levison against an enforcement notice issued by London Borough of Brent.
 - The notice was issued on 11 December 2019.
 - The breach of planning control as alleged in the notice is the material change of use of the premises to flats.
 - The requirements of the notice are 1. Cease the use of the premises as flats, and its occupation by more than one household; 2. 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; and 3. Restore the internal configuration to the original layout before the unauthorised change of use took place. For the avoidance of doubt, this should include a kitchen, dining room and lounge on the ground floor, bedrooms on the upper floor, a bathroom on the first floor, and a WC on the ground floor.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(d), (f), (g) of the Town and Country Planning Act 1990 as amended. The prescribed fees have not been paid so the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act shall not be considered.
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Decision

1. The appeal is allowed and the enforcement notice is quashed.

Preliminary Matters

2. An application for costs has been made by the Appellant against the Council. This application is the subject of a separate decision.

Reasons

The ground (d) appeal

3. The appeal property was originally a three bedroom dwelling but is now in use as six flats. For the ground (d) appeal to succeed the Appellant must have submitted sufficient precise and unambiguous evidence to justify a conclusion, on the balance of probability, that the change of use to flats occurred more than four years before the date of issue of the enforcement notice. The critical date is 11 December 2015. Also, the evidence must show that the use subsisted continuously and uninterrupted for the four year period.
4. The Appellant relies, primarily, on shorthold tenancy agreements for the flats, on statements of account and payment advice documents produced by the letting agents of the property, and on bank statements of the Appellant. Shorthold

tenancy agreements indicate that all six flats were occupied from about August or September in 2015; Flat 1 by A A Olorunjoe, Flat 2 by S A W Smith, Flat 3 by D C Williamson, Flat 4 by J G Wallace, Flat 5 by M Kane and Flat 6 by E Sullivan.

5. Statements of account document payments made by the first occupants of the flats until they ceased living at the appeal property. Each flat was subsequently re-let, on shorthold tenancies, with only short understandable gaps between tenancies until after the date of issue of the enforcement notice; Flat 1 to K O Abdullahi and then to S B Adjei, Flat 2 to C V Smith, Flat 3 to G H Jolloh, Flat 4 to M Guard and then to E Binava, Flat 5 to M B Al Zarki and then to A R Clarke, and Flat 6 to H Rakban and then to M O Okobiah. Occupancy by these persons, in all cases, is corroborated by statements of accounts.

6. Bank statements document payments by the letting agents of the property to the Appellant. These correspond to the payments received from occupants after deduction of management fees and other expenses. There is clear, precise and unambiguous evidence of continuous occupation of the six flats from before 11 December 2015 until after the date of issue of the enforcement notice. At any time during this more than four year period the Council could have taken enforcement action against the change of use of the appeal property.

7. 762 North Circular Road has been in continuous use as six flats, on the balance of probability, for more than four years prior to the date of issue of the enforcement notice. In accordance with the provisions of Section 171B(2) of the Town and Country Planning Act 1990 as amended the change of use of the premises to flats is now immune from enforcement action. The ground (d) appeal thus succeeds and the ground (f) and (g) appeals do not need to be considered.

John Braithwaite

Inspector

