



Appeal Decision

Site visit made on 4 October 2022

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 October 2022

Appeal Ref: APP/M5450/C/22/3293985

17 Whitchurch Avenue, Edgware HA8 6HU

- 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 Mr U Shah against an enforcement notice issued by the Council of the London Borough of Harrow.
 - The enforcement notice was issued on 1 February 2022.
 - The breach of planning control as alleged in the notice is without planning permission the unauthorised construction of a self-contained outbuilding used as an independent residential unit ("the Unauthorised Development").
 - The requirements of the notice are:
 1. Demolish the entire Unauthorised Development or
 - a) Cease the use of the Unauthorised Development AND
 - b) Remove the kitchen(s) from the Unauthorised Development AND
 - c) Remove the bathroom(s) from the Unauthorised Development and remove their constituent elements including pipework from the site
 2. 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 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

The appeal on Ground (f)

2. The appeal on this ground is "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 (i.e., the matters alleged in the notice) or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".
3. In this case, the purpose of the enforcement notice is to remedy the breach of planning control. This is clear from the requirements of the notice, which require either the demolition of the unauthorised development or the cessation of the use as a self-contained residential accommodation, and the removal of the kitchen and bathroom.

4. The appellant states the requirements of the notice are excessive since the removal of both the bathroom and kitchen, are unnecessary to remedy breach. It is argued that the removal of one or the other is sufficient to discontinuing the use and remedy the breach. It is also argued that if the outbuilding is used as a hobby room or as a gym, the shower room would be a useful additional facility, and its removal is therefore unreasonable.
5. It is clear that both the kitchen and bathroom, have sustained the unlawful use of the outbuilding as a separate dwelling. These facilities are part and parcel of the unauthorised use and should not be viewed in isolation as has been suggested by the appellant. Furthermore, no substantive evidence has been presented to demonstrate that the kitchen and bathrooms existed before the unauthorised change of use took place. Notwithstanding that a shower room may not require planning permission in its own right, a notice directed at a material change of use, as is the case here, may require their removal. I am therefore satisfied the requirements of the notice do not exceed what is necessary to remedy the breach of planning control.
6. On this basis, the Ground (f) appeal fails.

Conclusion

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

R Satheesan

INSPECTOR