



Appeal Decision

by Thomas Shields MA DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 February 2023

Appeal Ref: APP/N5090/C/22/3310161

59 Goldsmith Avenue, London, NW9 7HD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (hereafter “the Act”).
 - The appeal is made by Mr Ashani Masar against an enforcement notice issued by the Council of the London Borough of Barnet
 - The enforcement notice was issued on 22 September 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the use of the outbuilding in the rear garden as a self-contained dwelling house.
 - The requirements of the notice are:
 1. Cease the use of the outbuilding as a self-contained dwelling house.
 2. Permanently remove any kitchen unit, sink, cooker and food preparation area from the outbuilding.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(g) of the Act.
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Decision

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

Procedural matters

2. An appeal on ground (d) was withdrawn during the appeal process, leaving only the ground (g) appeal to be decided. As such, the parties agreed that a physical inspection of the appeal building was unnecessary.

Appeal on ground (g)

3. This ground of appeal is that the period of time for compliance with the enforcement notice requirements falls short of what should reasonably be allowed. The notice requires compliance within 6 months. The appellant seeks a period of 9 months.
4. The appellant’s undisputed evidence is that he is in the process of taking legal action to evict the current tenant from the outbuilding and, it is argued, the legal process could take longer than 6 months. However, there is no certainty as to how long it might take, and I am mindful that the harm resulting from the breach of planning control should be remedied as soon as possible.
5. Following this appeal Decision the tenant potentially might decide to leave earlier, before the period of 6 months expires, if an opportunity arose. If not, the Council point out the provisions of s179(3) of the Act, which provides a statutory defence to an appellant against prosecution for non-compliance with an enforcement notice if he can show that he did everything he could be expected to do to secure compliance with the notice – that would include the

legal action he is taking to secure eviction. In such circumstances the Council also has power available to it under s173A(1)(b) to extend the compliance period should they consider it appropriate to do so.

6. In light of all the circumstances I consider on balance that 6 months does not fall short of what should reasonably be allowed.
7. The appeal on ground (g) therefore fails.

Thomas Shields

INSPECTOR