



Appeal Decision

Site visit made on 28 March 2023

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4TH MAY 2023

Appeal Ref: APP/G5750/C/21/3288434

Land at 3 Plaistow Park Road, Plaistow, London E13 0SA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act). The appeal is made by Mrs S Ring against an enforcement notice issued by the London Borough of Newham Council.
- The notice was issued on 10 November 2021.
- The breach of planning control as alleged in the notice is: Without planning permission the material change of use to three self-contained flats.
- The requirements of the notice are: 1. Cease the use of the property as self-contained flats. 2. Remove from the property two of the three kitchens, any internal dividing doorways and internal partitioning that solely facilitates the use as self-contained flats, plus all duplicate doorbells, duplicate signage, and duplicate outside waste bins. 3. Remove from the property all but one supply of electricity, gas and water. 4. Remove from the site all debris arising from compliance with steps 1, 2 and 3.
- The period for compliance with the requirements is: five months from the date the notice takes effect.
- The appeal is proceeding on the grounds set out in sections 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld in the terms set out below in the Formal Decision.

Procedural Matters

1. I was informed during the site visit, in the presence of representatives from the Council, that the appeal site was no longer in use as 3 self-contained flats and was in use as a single dwellinghouse. I was unable to inspect the entirety of the appeal building as a door leading to the top floor was locked and I was informed that a tenant was sleeping in a room on the second floor, where the Council's submissions indicate a kitchen existed¹. As it is not clear to me how the appeal building is currently used or whether the enforcement notice has been fully complied with, I will proceed to consider the ground (a) appeal and the planning application deemed to have been made based on the submissions before me.
2. The appellant has referred to 2 gas meters being present at the appeal site, which I saw during my visit. It is claimed that these should make 2 flats at the appeal site lawful, but it is not clear which flats those meters may have related to or whether those flats remain in existence. No further information has been provided by the appellant with regard to whether any flats may be lawful at the appeal site and no appeal has been lodged under ground (d). As such, there is no case for me to consider whether any flats at the appeal site are lawful.

¹ Appendix 2 of the Council's Statement of Case

The Ground (a) appeal and the deemed planning application

3. The appellant has claimed that planning permission should be granted for 2 flats at the appeal site, but no plans or details have been provided to identify which flats the appellant seeks planning permission for. In accordance with section 177(1)(a) of the Act I shall consider whether planning permission should be granted in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters

Main Issues

4. The main issues are:
 - the effect of the subdivision of the appeal building into flats on the supply of family housing within the Borough;
 - Whether the subdivision of the appeal building into flats provides acceptable living conditions for occupiers of the appeal building; and
 - The effect of the subdivision of the appeal building into flats on the living conditions of neighbouring residents.

Reasons

Supply of Family Housing

5. The Council's submissions indicate the appeal building was in use as a dwellinghouse with 4 bedrooms and 2 reception rooms when marketed for sale on 7 December 2018². This has not been disputed by the appellant.
6. Family housing is defined in the Newham Local Plan (2018) (NLP) as houses or flats within the C3 use class containing 3 or more bedrooms. The appeal building therefore comprised family housing, in the context of the NLP, prior to its unauthorised material change of use to 3 flats.
7. The floor plans referred to at footnote 1 show that all of the flats within the appeal building comprised 2-bedroom flats. No evidence has been presented to suggest any of those flats comprised family housing.
8. The unauthorised development has therefore resulted in the loss of family housing, in conflict with Policies H1, H4, S1, S6, SP1, SP2 and SP3 of the NLP and Policy GG4 of The London Plan (2021) (LP). These seek to protect family housing comprising dwellings with 3 or more bedrooms and to ensure an appropriate mix of housing across the Borough to provide for the community's needs, amongst other things.

Living Conditions: Occupiers of the Appeal Building

9. It is evident from the floor plans provided and what I saw during my site visit that rooms within the appeal building have been subdivided to create a cramped and contrived layout with narrow corridors throughout the building. All of the flats which form the subject of the notice were small in size with no communal space other than small kitchen areas.

² Appendix 4 of the Council's Statement of Case

10. The top floor room had a very low ceiling height, which appears to have resulted in the door to the space at that level being marked 'storage' and locked shut. The Council's evidence indicates that the top floor room was used as a bedroom. Neither of the flats above ground floor level would have had access to private outdoor amenity space.
11. The Council's evidence shows that the flats failed to provide the minimum Gross Internal Areas for 2-bedroom/3-person and 2-bedroom/4-person flats, as set out in the Government's Technical Housing Standards³. This has not been disputed by the appellant. On account of the small size and cramped internal layout of the building, the unauthorised flats would not have provided a reasonable degree of accessibility or flexibility for their occupiers.
12. The unauthorised use of the appeal building as 3 self-contained flats therefore creates low-quality housing contrary to Policies SP1, SP2, SP3 and H1 of the NLP, and Policies D3, D4, D5, D6 and GG4 of the LP. These require, amongst other things, new development to provide high quality housing which achieves indoor environments that are comfortable and inviting for people to use, and which meets minimum internal and private outside space standards.

Living Conditions: Neighbouring Residents

13. The appeal site is a 3-storey mid-terrace building with a small front garden, located on a residential street of similar properties. Houses are closely arranged, fronting onto the street.
14. I have been referred to the different living patterns occupiers of 3 flats at the appeal site would likely have, and their greater potential to generate noise and disturbance compared to occupiers of a single dwellinghouse. This would be due to a higher intensity of use of the site, potentially resulting from more people occupying the building.
15. The 3 flats the subject of the enforcement notice were small in size, but they have been referred to as 3 or 4 person flats by the Council. I have not been provided with evidence which demonstrates how many people occupied those flats compared to the building's former use as a single dwellinghouse.
16. On the limited information before me, it appears likely that the breach of planning control has the potential to generate greater noise and disturbance to the detriment of the living conditions of neighbouring residents. This would be on account of how closely arranged houses are on Plaistow Park Road, with the breach of planning control creating the potential for significantly more comings and goings to and from the appeal site.
17. The breach of planning control therefore conflicts with Policies SP2, SP3 and SP8 of the NLP and Policy D14 of the LP. These seek to avoid adverse noise impacts from development, create healthy places to live through housing design, and ensure development achieves good neighbourliness, amongst other things.

Conclusion on Ground (a) and the deemed application for planning permission

18. The use of the appeal dwelling as 3 self-contained flats has an adverse impact on the supply of family housing within the Borough and creates unacceptable

³ Nationally described space standards (2015)

living conditions for occupiers of the appeal building. It also has the potential to harm the living conditions of neighbouring residents. The use of the appeal building as 3 self-contained flats conflicts with the development plan taken as a whole and there are no material considerations that indicate my decision under ground (a) and on the deemed planning application should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal under ground (a) should not succeed, and the deemed planning application should be refused planning permission.

The Ground (g) appeal

19. To be successful under this ground, the appellant needs to demonstrate that the period of 5 months specified in the enforcement notice for its requirements to be complied with falls short of what should reasonably be allowed.
20. I have not been provided with any arguments as to why 5 months may be insufficient for the notice's requirements to be fully complied with. I appreciate that the COVID-19 pandemic may have delayed access to the appeal dwelling previously, but there is no evidence that it would be unreasonable to expect the notice's requirements to be fully complied with within 5 months of the date of this appeal decision.
21. It has not been demonstrated that the period specified in the enforcement notice for its requirements to be complied with falls short of what should reasonably be allowed. The appeal under ground (g) must therefore fail.

Conclusion

22. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decision

23. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

L Douglas

INSPECTOR