



Appeal Decision

by **L Douglas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **15th AUGUST 2023**

Appeal Ref: APP/Y5420/C/22/3297609

The land and building(s) known as 25 Buller Road, London N17 9BH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act). The appeal is made by Mr Nazir Yousaf against an enforcement notice issued by London Borough of Haringey.
 - The notice was issued on 21 March 2022.
 - The breach of planning control as alleged in the notice is Without planning permission, the material change of use to five 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 all but one of the kitchens (a kitchen includes cooking appliances, sinks, kitchen worktops and cupboards). 3. Remove from the property all but one supply of electricity, gas and water. 4. Remove from the property all but one of the doorbells. 5. Remove from the property any internal dividing doorways and partitions facilitating the use of the property as self-contained flats. 6. Remove from the land all debris arising from compliance with the above steps.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the ground set out in section 174(2)(d) of the Town and Country Planning Act 1990 as amended.
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Decision

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

Preliminary Matter

2. The appellant did not attend the pre-arranged appointment for my site visit on 8 August 2023. A representative for the Council was present, but I did not discuss any matters material to the appeal with them. As I was unable to access the appeal site in the presence of the appellant, I aborted the site visit. I am satisfied that I can reach a decision on the appeal, which relies on legal matters, without carrying out a site visit.

Ground (d)

Main Issue

3. The main issue is whether the appellant has proved on the balance of probability that the use of 25 Buller Road changed to use as 5 dwellinghouses on or before 21 March 2018¹ and that such use then continued actively without significant interruption for a period of 4 years after the date of change.

Reasons

4. The appeal site is a mid-terrace house, which is claimed to have been converted into 5 self-contained flats and then rented out to tenants consistently since January 2018, save for periods when refurbishment works were undertaken.

¹ Four years prior to the issue of the enforcement notice

5. The appellant has provided evidence in the form of bank statements for the period 1 January 2018 to 31 March 2022. Those bank statements include highlighted deposits into the appellant's bank account with descriptions which are said to relate to different tenants.
6. The appellant has explained in limited detail that his son previously ran a company which was used to manage and collect rent from tenants between January 2018 and February 2019. The appellant's son and that company are listed as making deposits to the appellant's bank account over that period. It is claimed that the property was then refurbished, creating gaps in dates when 'rooms' were rented out between February and the middle of 2019.
7. The appellant has provided the names of 6 people who are claimed to have been tenants at the appeal site between different periods since 2019. Those names correspond with the descriptions of payments made into the appellant's bank account since 2019. The appellant has also referred to tenancy agreements, but no copies of those documents have been provided.
8. The bank statements provided show the transfer of money into the appellant's bank account from various people over the relevant 4-year period. However, there is a lack of detailed evidence to link those names and payments to the use of the appeal site.
9. The Council has advised that the property has been registered as a single dwellinghouse with the appellant as the person liable to pay council tax since 2008, and that applications submitted in 2018 referred to the building as a single dwellinghouse.
10. An application² for a lawful development certificate for proposed development at the appeal site was submitted by the appellant under the provisions of section 191 of the Act on 4 August 2018. That application related to a proposed rear dormer extension and loft conversion, which was claimed to be 'permitted development' under the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). An application³ for prior approval for a proposed larger home extension at the appeal site was also submitted by the appellant under the provisions of the GPDO on 6 September 2018.
11. The existing floor plans⁴ submitted as part of the above applications, which are dated 31 July 2018, show the appeal property comprised a single dwellinghouse with 3 bedrooms at that time. The provisions of the GPDO referred to by the appellant in those applications would not have been applicable to a building not in use as a single dwellinghouse. There is no explanation as to why those applications were submitted with those existing plans if the appeal property was actually in use as 5 self-contained flats at that time. This leads me to seriously doubt the appellant's claims that the appeal site has been in use as 5 self-contained flats since January 2018.
12. Taking all of the evidence provided into account, the appellant has not demonstrated on the balance of probability that the use of 25 Buller Road changed to use as 5 self-contained flats on or before 21 March 2018. The

² The Council's ref: HGY/2018/2354

³ The Council's ref: HGY/2018/2680

⁴ Drawing no. E1 by WISE M.Eng. Civil / Structural

evidence indicates such a change of use took place less than 4 years before the enforcement notice was issued.

13. The ground (d) appeal must therefore fail.

Conclusion

14. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

L Douglas

INSPECTOR