



Appeal Decision

Site visit made on 1 February 2024

by Richard S Jones BA(Hons), BTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2024

Appeal Ref: APP/G5750/C/22/3308833

Land at 14B Western Road, Plaistow, London, E13 9JF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Mr Asad Chaudhary (ZAS Ventures Ltd) against an enforcement notice issued by London Borough of Newham.
 - The enforcement notice was issued on 14 September 2022.
 - The breach of planning control as alleged in the notice is, without planning permission, the material change of use to a brothel.
 - The requirements of the notice are to:
 1. Cease the use of the property as a brothel.
 2. Remove from the property all fixtures and fittings that solely facilitate the use as a brothel.
 - The period for compliance with the requirements is one month.
 - The appeal is proceeding on the grounds set out in section 174(2)(b), (e) and (g) of the Town and Country Planning Act 1990 as amended.
-

Decision

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

The Appeal on Ground (e)

2. An appeal on ground (e) is that the notice was not properly served on everyone with an interest in the land.
3. The appellant states that No 14 Western Road contains three rear units: Flats A, B and C, and that it is unclear whether the labelling of the flats is correct in the Council records for serving the enforcement notice. The appellant seeks to highlight that the Council has outlined the whole site for the notice, which he says is incorrect.
4. However, it is undisputed that the allegation relates to the rear single storey building adjacent to the side boundary, which is included within the red line boundary on the plan attached to the enforcement notice. That red line boundary is consistent with the title plan boundary for the freehold interest held by the appellant's company, as shown in the Land Registry documents provided by the Council. More importantly, the land affected by the notice is precisely described as 'Land at 14B Western Road...', and the appellant does not argue that is incorrect.
5. In any event, s176(5) of the 1990 Act provides that any failure to serve may be disregarded if the appellant has not been substantially prejudiced. The appellant acknowledges that his company was served with the enforcement

notice on the 14 September 2022, and he has evidently been able to make an appeal against the same before it came into effect. Moreover, the appellant does not claim that any other person was not served with a copy of the notice when they ought to have been.

6. I therefore conclude that the appellant has not demonstrated that the notice was not properly served, or that any such failure gave rise to substantial prejudice. The appeal on ground (e) fails.

The Appeal on Ground (b)

7. The ground (b) appeal is that the alleged material change of use to a brothel has not occurred as a matter of fact. The onus lies with the appellant to make his case on the balance of probabilities.
8. The appellant asserts that allegation is not true and that there is no evidence to show that the property was used for anything other than as residence.
9. However, the Council has produced a signed witness statement from a Police Constable (PC) of the Metropolitan Police dated 26 August 2021. In that statement, the PC explains that he was tasked to attend No 14B as intelligence suggested that it was being used as a brothel. He confirmed that to be the case on the basis of two individuals engaged in prostitution activity, the large quantities of condoms and lubrication aids and empty condom wrappers.
10. Representation from the neighbouring occupants also refer to condoms being thrown into their back garden, to hearing discussions relating to cost, to a succession of men in the street looking lost until beckoned in (because the entrance is not obvious) and to a client wrongly knocking their door.
11. The appellant, who rents out the property, has provided evidence of a tenancy agreement for No 14B for a 6 month period commencing in March 2017 which stipulates that the premises shall not be used for purposes other than a single dwellinghouse, or to carry out any profession or trade. He has also submitted Selective Licencing documentation for No 14B which limits occupation of the dwelling to one person along with other conditions. However, those documents do not demonstrate that the alleged use did not occur, contrary to restrictive conditions.
12. I recognise that the Property Licence granted by the Council requires the licence holder to carry out compliance checks and that the last such check took place in June 2022 when there was no apparent unauthorised use. The appellant also refers to other regular, unannounced inspections but no further details have been provided. In any case, being fitted out as dwelling and appearing as such in an inspection would not preclude its use as alleged.
13. I appreciate that the appellant may not have been aware of the use of the property as a brothel, but, as he does not profess to be a resident landlord, such use could easily occur without his knowledge.
14. Based on the evidence before me, which includes a signed, police witness statement that attracts substantial weight, I find that that the alleged material change of use of No 14B to a brothel did occur, on the balance of probabilities.
15. The ground (b) appeal fails.

The Appeal on Ground (g)

16. The ground (g) appeal is that one month given to comply with the notice is too short. The appellant requests that be increased to nine months, taking into account the difficulty of evicting any tenant.
17. However, the notice does not require the residential use to cease thereby requiring a tenant to be evicted. Rather, the requirements of the notice are to cease the use of the property as a brothel and to remove from the property all fixtures and fittings that solely facilitate that use. One month is sufficient for those purposes.
18. The appeal on ground (g) fails.

Other Matters

19. I have noted the interested party submissions that the dwellings to the rear of No 14 were built without planning permission and continue to be occupied despite the poor conditions. However, those matters do not form part of the alleged breach of planning control and are therefore beyond the scope of this appeal.

Conclusion

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

Richard S Jones

INSPECTOR