



Appeal Decision

Site visit made on 16 January 2024

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2024

Appeal Ref: APP/E0345/C/23/3325167

Land at 85 & 87 Longships Way, Reading RG2 0AJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Jassim Mohamed Y A Al-Kuwari against an enforcement notice issued by Reading Borough Council.
 - The notice was issued on 26 May 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the change of use of 85 Longships Way, Reading RG2 0AJ and 87 Longships Way, Reading RG2 0AJ combined into a single dwellinghouse.
 - The requirements of the notice are to:
 - a) Cease the use of No.85 and No.87 Longships Way as a single dwelling and return their use to two separate dwellings.
 - b) Reinstall a solid internal party wall at ground floor level between No.85 & No.87 Longship Way such that internal passage in any way between the two properties on this floor is no longer possible.
 - c) Reinstall a solid internal party wall at first floor level between No.85 & No.87 Longships Way such that internal passage in any way between the two properties on this floor is no longer possible.
 - d) Remove the internal passageway walls at ground level, to allow the two living rooms to return to their full sizes for these individual family homes
 - e) Reinstall a fully-functioning kitchen at No. 85 Longships Way to include, but not limited to, a cooker, sink, food storage facilities and worktop to allow for the safe storage and preparation of food at the property independently from any other dwelling.
 - f) Reinstall a staircase between the ground, first and second floors within 85 Longships Way.
 - g) Carry out all necessary works to ensure that the two properties have: i) separate connections to utilities and ii) independent electrical, water, drainage, security and heating systems, in accordance with all relevant Regulations.
 - h) Reinstall a close-boarded fence of not less than 1.8m in height above natural ground level, to re-separate the rear amenity space back into two separate, private gardens for the two family dwellings.
 - i) Remove all resulting debris from the land.
 - The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f) 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.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the change of use of 85 Longships Way, Reading RG2 0AJ and 87 Longships Way, Reading RG2 0AJ combined into a single dwellinghouse

at Land at 85 & 87 Longships Way, Reading RG2 0AJ as shown on the plan attached to the notice.

Ground (d)

2. This ground of appeal is that, at the time the enforcement notice was issued, it was too late to take enforcement action. The notice alleges the amalgamation of two dwellings into one, thereby constituting the change of use to a dwellinghouse. Accordingly, the development would be immune if substantially complete 4 years or more before the service of the notice. Therefore, the relevant date is 26 May 2019.
3. The appellant relies on the answer provided within the application form submitted for a previous application to the Council for a lawful development certificate for the use subject of the notice (which was refused, and an appeal subsequently dismissed). In answer to the question of when the use was begun, the date was stated to be 1 April 2019. It is contended that the Council has at no point previously contested this date. Notwithstanding this, the appellant provides no additional evidence to support this stated date.
4. The Council states that an officer first visited the site on 10 July 2019 and at this time there were builders on site and the officer was refused access to the property. It is contended that this is suggestive of works being ongoing at this time. A further visit was undertaken on 20 August 2019, when it was apparent that there was no separation between the properties. An internal inspection was undertaken on 11 September 2019, there was no separation between the properties, most rooms were empty and little to suggest that the site was being occupied as a single dwelling. The Council also draw attention to council tax records indicating that on 15 April 2019 there were two properties liable for council tax and that the re-banding to a single property took place on 1 October 2019.
5. Considering the above, I find that the weight of the evidence shows, on the balance of probability, that the use as a single dwellinghouse began after the relevant date, likely between September and October 2019, and therefore is not immune from enforcement action. Thus, the appeal on ground (d) fails.

Ground (a) – the deemed planning application

Main issue

6. Whether the amalgamation of two dwellings into a single dwelling is acceptable at this location, having regard to local housing need and planning policy.

Reasons

7. Policy H7 of the Reading Borough Local Plan (adopted November 2019) (the Local Plan) states that "Planning permission will not be granted for any loss of residential accommodation or land unless there are exceptional circumstances. Planning permission will not be granted for a net loss in the number of residential units or gross floor area."
8. While there has been no loss of gross floor space, the development has resulted in the net loss of a single dwelling. Thus, there is conflict with this requirement of the policy. However, there is also a need to consider whether there are exceptional circumstances that justify the grant of permission.

9. The appellant sets out a detailed case in respect of their personal circumstances, which include having a large extended family which includes the need to provide care to a number of family members, due to age and medical conditions. There is also reference to a previous search for suitable accommodation to house the family, which has been unsuccessful. I am also mindful that at the time of my site visit, I observed that separate living spaces were provided within the single unit for males and females within the family, as well as the installation of a lift allowing access to above ground accommodation for the elderly.
10. With all this in mind, I find that the development has been undertaken to suit the specific and unique needs of the occupiers and, in my view, this is sufficient to comprise the exceptional circumstances that would allow permission to be granted further to policy H7. In reaching this conclusion I have had regard to my duty under the Public Sector Equality Duty, to advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it.
11. Accordingly, I find that in this case the personal circumstances of the appellant comprise exceptional circumstances, sufficient to justify the limited loss of a single unit of accommodation. The development therefore accords with policy H7 of the Local Plan and the development plan as a whole.

Conditions

12. The Council has not provided any suggested planning conditions in the situation where I grant planning permission. Given that the development has already been carried out, I consider that none are necessary.
13. The appellant has offered that a condition in respect of a personal planning permission would be acceptable to them, if I were so minded. However, given that the policy allows for permission to be granted through exceptional circumstances, I find that such a condition would not meet the test of necessity in this case.

Other Matters

14. The appellant has made several references to the expediency of the Council undertaking enforcement action. This however is a matter for the Council to consider, not one which affects my consideration of the appeal.

Conclusion

15. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the use as described in the notice.
16. It follows that the appeals on grounds (f) and (g) do not fall to be considered.

Martin Allen

INSPECTOR