



Appeal Decision

Site visit made on 18 April 2024

by C J Leigh BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th May 2024

Appeal Ref: APP/G5750/C/22/3301668

11 Orchid Close, Beckton, London, E6 5UB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Roshan Jabar against an enforcement notice issued by the Council of the London Borough of Newham.
- The enforcement notice, numbered 20/00476/ENFC, was issued on 23 May 2022.
- The breach of planning control as alleged in the notice is without planning permission the material change of use to a *Sui Generis* house in multiple occupation (HMO).
- The requirements of the notice are:
 1. Cease the use as a *Sui Generis* house in multiple occupation.
 2. Remove all fixtures and fittings that solely facilitate the use as a *Sui Generis* house in multiple occupation, including (but not limited to) all internal locks on bedroom doors and any additional mattresses and beds and the additional kitchen.
 3. Remove from the site all debris arising from compliance with steps 1 and 2.
- The period for compliance with the requirements is six months from the date the notice takes effect.
- The appeal is proceeding on the ground set out in sections 174(2)[a], [e] 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.

Formal decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

The appeal on ground (e)

2. The appellant informs me he was only aware of the issuing of the enforcement notice as it was forwarded to him by his mortgage provider, who had been served with the notice. I understand that the notice had been served to the appellant at an old address, even though he had previously contacted the Council to inform him of his new address, and the Council accept that error.
3. Whilst that error is a matter of concern to me, since the Council were specifically informed of the correct address, it is apparent that the appellant did receive a correct copy of the notice and made a valid appeal. He has also made comprehensive submissions to explain the grounds of appeal. Hence, under the provisions of s175(5) of the Act, I consider that although the appellant was not directly served with the notice I may disregard that fact as he has not been substantially prejudiced by the failure to serve him. The appeal on ground (e) therefore fails.

The appeal on ground (a) – the deemed planning application

4. The main issues here are, firstly, whether the accommodation provides a satisfactory standard of accommodation for occupants and, secondly, the effect on the living conditions of neighbouring occupants by virtue of noise and disturbance.
5. The property sees the six bedrooms each used as accommodation for at total of up to 10 residents in the HMO. I saw at my site visit these are good sized rooms with natural lighting. There are two sizeable kitchens in the property and a communal living room of reasonable size, proportions and lighting. There are two bathrooms at first floor, and one bathroom and a WC at ground floor. There is a private garden to the rear of the property which is easily accessible from the communal kitchen and living room.
6. From my observations at the site visit I am content that this layout of the property, and the level of use of the building, leads to an acceptable standard of accommodation for occupants. Private rooms are of a good size to remain as private spaces, with the communal space sufficient to allow for residents to socialize if wished. The provision and position of bathrooms in the property are sufficient for the number of residents, and easy to find within the building without undue disturbance to other occupants. The kitchens, communal lounge and the garden are well-placed to provide a proper sense of home to allow for relaxation by tenants.
7. I therefore consider the use of the property is consistent with Policies D4 and D6 of the London Plan 2021 and Policies S1, SP1, SP2, SP3 S6, SP8, H1 and H4 of the Newham Local Plan 2018, the general thrust of which in relation to housing provision seeks to ensure a high standard of design, and to provide high quality homes that assist in healthy living conditions and better places to live.
8. The property lies within a wider residential estate, where houses are sited close together and also close to the highway, with short front gardens and parking spaces. The front door to the property opens onto the garden and parking area, and adjoins the neighbouring parking area and garage rather than any windows or doors. Occupants will quickly exit onto the wider network of streets and paths. With this area being regularly used by cars and other pedestrians, I consider the level of use of the property would not lead to any material level of disturbance to other residents of the area due to comings and goings.
9. The rear garden to the appeal property adjoins a wider area of gardens to other properties. As I have found the level of use for the property is acceptable for the layout and configuration, I cannot identify any particular harm to amenity that might arise from the use of that garden compared to other residential use of the property.
10. I therefore find that the use does not give rise to any material harm in noise or disturbance to existing occupants, and so there is no conflict with Policy D14 of the London Plan and Policies SP2, SP3 and SP8 of the Local Plan which, amongst other matters, seek to ensure development does not harm living conditions or lead to significant levels of noise that would impact health and quality of life.

Conclusion

11. 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.
12. The appeal on ground (g) does not fall to be considered.

Formal decision

13. 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 material change of use to a *Sui Generis* house in multiple occupation (HMO) at 11 Orchid Close, Beckton, London, E6 5UB, as shown on the plan attached to the notice

C J Leigh

INSPECTOR