



Appeal Decision

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 24th July 2024

Appeal Ref: APP/N5090/C/23/3318912

16 Greyhound Hill, London NW4 4JR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Farzad Zahab against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The notice was issued on 9 February 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the property to eleven self-contained flats
 - The requirements of the notice are to
 1. Cease the use of the property as self-contained flats.
 2. Remove all works that facilitated the change of use of the property by:
 - a) modifying the layout of the ground and first floors in accordance with the proposed floor plans on drawing No's 01 and 02 approved as part of planning permission reference 19/1221/ HSE granted 29.04.2019 including:
 - i) the permanent removal of all baths, showers, basins and toilets from all rooms other than those marked 'SHOWER' and 'BATHROOM' on the drawings; and
 - ii) permanent removing all kitchen facilities including kitchen units cooking facilities sinks and worktops other than those marked 'KITCHEN' on the drawings.
 - b) permanently removing all kitchen facilities (including kitchen units, cooking facilities, sinks and worktops) and bathroom facilities including baths, showers, basins and toilets) from the loft.
 - The period for compliance with the requirements is 6 months
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is varied by deleting requirement 2 in full and replacing it with:
 2. i) Remove all baths, showers, basins and toilets from all rooms other than those marked 'SHOWER' and 'BATHROOM' and all kitchen facilities including kitchen units, cooking facilities, sinks and worktops other than those marked 'KITCHEN' on the floor plans number 01 and 02 approved as part of planning permission reference 19/1221/ HSE granted on 29.04.2019.
 - ii) Remove all kitchen facilities (including kitchen units, cooking facilities, sinks and worktops) and bathroom facilities including baths, showers, basins and toilets) from the loft.
2. Subject to the variations, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matter

3. As the appeal is being made under grounds (f) and (g), the appeal can be determined on the basis of the evidence provided without a site visit.

The appeal under ground (f)

4. An appeal on this ground is "that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters (i.e., the matters alleged in the notice) or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".
5. In this case, the purpose of the notice is to remedy the breach of planning control as the requirements include the cessation of the unauthorised use of the property as self-contained flats and the removal of kitchens and bathrooms with restoration to the former layout shown on drawing numbers 01 and 02 approved as part of planning permission reference 19/1221/HSE granted on 29.04.2019.
6. The appellant has no issue with the first requirement which is to cease the self-contained use. However, he considers that the second requirement is too prescriptive and excessive as the appellant wishes to have the option to have one kitchen and a maximum of four bedrooms including en-suites to be laid out at his discretion.
7. The approved layout plans show a single kitchen on the ground floor. The bathroom facilities would revert to three shower or bathrooms serving five bedrooms on the first floor and a fourth shower room on the ground floor. The additional ten kitchens and seven shower or bathrooms have clearly facilitated the unauthorised change of use and their removal in these circumstances is supported by case law.¹ The approved layout drawings do not include the loft space. I do consider that the removal of facilities from the loft is appropriate when there is no evidence before me to show that those facilities existed before the breach occurred.
8. The appellant has not indicated why the previous location of the four bathrooms or shower rooms is an issue for use as a single family dwellinghouse. In the absence of any suggesting wording, it is also not clear if the appellant wishes to remove all of the existing kitchen and bathroom facilities and start afresh which is likely to be more onerous. I do not consider that reverting to the previous layout for the kitchen and bathrooms is excessive particularly when no alternative wording has been provided and the property will still retain four shower or bathrooms and a ground floor kitchen.
9. However, it is not clear from the wording of requirement 2 if amendments to the internal layout are required over and above the removal of the bathrooms and kitchens. The cessation of the self-contained use and the removal of the additional bathroom and kitchen facilities as set out in the notice is sufficient to remedy the breach. The word "permanently" is also not necessary having regard to Section 181(1) of the Act. Although the loft space is not shown on the approved plans, a separate requirement to remove the facilities does make clear that the kitchen and bathroom facilities in the loft are to be removed.
10. I will therefore delete requirement 2 in full and replace it with
 2. i) Remove all baths, showers, basins and toilets from all rooms other than those marked 'SHOWER' and 'BATHROOM' and all kitchen facilities including kitchen units, cooking facilities, sinks and worktops other than those marked

¹ Murfitt v SSE & East Cambridgeshire CC [1980] JPL 598

'KITCHEN' on drawing numbers 01 and 02 approved as part of planning permission reference 19/1221/HSE granted on 29.04.2019.

ii) Remove all kitchen facilities (including kitchen units, cooking facilities, sinks and worktops) and bathroom facilities (including baths, showers, basins and toilets) from the loft.

The appeal under ground (g)

11. An appeal under ground (g) is that the time for compliance is too short. The period for compliance is 6 months. The appellant asked for 15 months as the occupiers have 12 month assured tenancy agreements and work could only start once the occupiers have moved out. In addition, the appellant refers to delays in evicting occupiers through the courts due to the Covid pandemic.
12. No copies of tenancy agreements or details of the personal circumstances of any of the occupiers of the flats have been provided. There is no information to indicate if all of the tenancy agreements run from the same date. As the appeal was lodged in March 2023, and in the absence of a ground (a) appeal, some of the occupiers may have already moved out in the intervening period and found alternative accommodation. Delays in court proceedings due to the Covid pandemic are now unlikely to be an issue. As there is very limited evidence before me as to why 6 months to comply is unreasonable, the appeal under ground (g) fails.

Conclusion

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

E Griffin

INSPECTOR