



Appeal Decision

Site visit made on 17 July 2012

by Nigel Burrows BA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 August 2012

Appeal Ref: APP/T5150/C/12/2172780
103 A-E Chatsworth Road, London, NW2 4BH

- 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 N Jadva against an enforcement notice issued by the Council of the London Borough of Brent.
- The Council's reference is E/11/0858.
- The notice was issued on 16 February 2012.
- The breach of planning control as alleged in the notice is the change of use of the premises from two self-contained flats to five self-contained flats.
- The requirements of the notice are cease the use of the premises as more than two self-contained flats, remove all fixtures, fittings, items, materials and debris associated with the unauthorised change of use, including ALL kitchens, except TWO, and ALL bathrooms, except TWO, from the premises.
- 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. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

Summary of Decision: The appeal succeeds in part and the enforcement notice is upheld with a variation

The appeal on ground (f)

1. The issue under the ground (f) appeal is whether the steps required by the enforcement notice exceed what is necessary to remedy the breach of planning control, or, as the case may be, to remedy any injury to amenity caused by the development.
2. The manner in which the Council has prepared the enforcement notice against the development, including the formulation of its requirements, indicates that its purpose is to remedy the breach of planning control in accordance with section 173(4)(a) of the Act, by restoring the premises to its condition before the breach of control took place.
3. Planning permission was apparently granted in 2010 for the conversion of the building into two self-contained flats. The appellant points out the approved plans showed the provision of 'four bathrooms and a W.C'. In practice, the plans appear to show the ground floor flat having a bathroom and also a shower room (each with toilets); the layout of the first floor flat also included a bathroom and a shower room (each with toilets) and a separate toilet. The appellant argues the requirements of the notice are excessive, insofar as he is required to remove all the 'bathrooms' except two.
4. There appears to be no dispute that, prior to the breach of planning control, the building had been converted into two self-contained flats. It is reasonable to assume the accommodation was arranged as shown on the approved plans - the Council has

not suggested otherwise. This being the case, I share the appellant's view that a requirement to remove all the 'bathrooms', except two, appears to be excessive.

5. I intend to vary the notice by requiring that all but four of the bathrooms/shower rooms shall be removed from the premises. This requirement, coupled with the other requirements of the notice, would satisfactorily remedy the breach of planning control.
6. Although the Council might be concerned that the retention of four bathrooms/shower rooms within the premises could encourage a future breach of control, section 181 of the Act makes it clear that compliance with an enforcement notice does not discharge the notice; if the development is resumed, then there is a contravention of the notice.
7. The ground (f) appeal therefore succeeds, to the limited extent indicated above.

The appeal on ground (g)

8. The appellant argues that a period of 10 months would be needed to allow the tenants to relocate and undertake the works required by the notice. However, I am not persuaded this period would be required to comply with the notice. The 6-month period given by the Council appears to be a reasonable and proportionate response to the breach of control; this period should give the tenants adequate time to look for alternative accommodation and enable the necessary remedial works to be carried out.
9. Should any unforeseen circumstances occur, section 173A(1)(b) of the Act enables the Council to extend the compliance period at its discretion. The ground (g) appeal fails.

Conclusions

10. I have taken into account all the other matters raised in the representations, but find they do not alter or outweigh the main considerations that have led to my decision. For the reasons given above, I will uphold the notice with a variation.

Formal Decision

11. I allow the appeal on ground (f). I direct that Schedule 4 of the enforcement notice be varied by deleting from the third and fourth lines of Step 1, the words '*and ALL bathrooms, except TWO,*' and substituting the words '*and ALL bathrooms and shower rooms, except FOUR,*' .
12. Subject to the above variation, I uphold the enforcement notice.

Nigel Burrows

INSPECTOR