
Appeals Decision

Site visit made on 22 October 2014

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 30 October 2014

Appeal Refs: APP/R5510/C/13 2210954 and 2210955 40 Cowley Mill Road, Uxbridge, Middlesex UB8 2QE

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals (as numbered above) are made by Mr Malkit Purewal and Mr Sanjay Kumar against an enforcement notice issued by the London Borough of Hillingdon.
 - The Council's reference is ENF/223/13.
 - The notice was issued on 22 November 2013.
 - The breach of planning control as alleged in the notice is the conversion of the property from a single dwelling house to three (3) residential units (flats).
 - The requirements of the notice are as follows:
 - (i) The cessation of the use of the premises to provide three (3) self-contained flats.
 - (ii) Remove all walls, partitions, doors and locks which facilitate the use of the dwelling as three self-contained flats.
 - (iii) Remove the kitchen areas from each of the three flats so that there is only one kitchen on the premises. This will include the removal of the fixtures, fittings and appliances including the sink(s), worksurface(s), appliances, kitchen style wall and floor cupboards and hot and cold water service and foul waste drainage pipes.
 - (iv) Remove two of the bathroom suites so that there is only one bathroom on the premises. This will include all fixtures and fittings, showers, basins, WCs and hot and cold water services and foul waste drainage systems.
 - (v) Remove from the land all debris, waste and building material together with all plant, equipment and machinery associated in compliance with requirements steps (i) to (iv) above.
 - The period for compliance with the requirements is three (3) calendar months.
 - The appeal is proceeding on grounds (b) and (f) as set out in section 174(2) 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 is not considered.
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Decision

1. Both appeals are allowed to the limited degree under ground (f) only. Otherwise, the appeals are dismissed and the enforcement notice is upheld.

Background information and matters of clarification

2. The end of terrace, two-storey (plus roof space) property is located on the west side of Cowley Mill Road, Uxbridge. The entrance door opens on to the street and there is a small garden to the rear. The alleged breach of control was brought to the attention of the Planning Services by Private Sector Housing following investigations into breaches in housing legislation.

3. At the time of my site visit it was evident that there were two tenancies at the property and that the first floor and second floor were being let as one unit which was referred to as a 'duplex'. However, I must consider the situation at the time the notice was served and in relation to all of the written submissions.

4. At my site visit I noted that there was a small kitchen at the front of the house, adjacent to the entrance to the ground floor unit (unit A). The kitchen was accessible to the other parts of the house and included a hob and oven and a washing machine. There was a boiler enclosed within this space and an electrical fuse box which served the ground floor unit A. There was no separate meterage to this ground floor unit. Inside unit A, which had a Yale type lock to its door and the letter 'A' affixed, there was a small kitchen with sink and fridge but no cooker. There was a freestanding microwave oven. The rear part of the space provided a bedroom area and there was a wc/shower room adjacent to the entrance. A rear door led, via a porch, to the rear garden.

5. On the first floor there was another unit (unit B). The entrance door to this also had a separate lock and the letter 'B' affixed. Again there was a small kitchen with sink and fridge but no cooker. The front part of the room was used as a bedroom and there was a wc/shower room adjacent to the entrance. From the first floor landing there was another door marked 'C' with a separate lock and this led via a staircase to the second floor level. This unit (C) also had a wc/shower room and a small kitchen with sink and some storage.

The appeal on Ground (b)

6. It is contended on behalf of the appellants that what is alleged has not occurred as a matter of fact. It is argued that the property is a House in Multiple Occupation (HMO) and that (similar to another house owned by the appellants) the works carried out constitute permitted development.

7. From my inspection it seems to me that the property is currently used as a HMO, in that the occupiers of the ground floor and those of the upper two floors have the use of the communal ground floor kitchen as well as their own specific rooms in unit A (as one room area) and units B and C (as two rooms combined on the upper two floors).

8. However, on the basis of what I have seen, and irrespective of the tenancies now or at the time of issue of the notice, the various works of conversion were such that three separate units of accommodation were provided. Each of the units A, B and C had a lockable access door; each had its own its own wc/shower facilities and each had its own kitchen. Apart from a mains cooker these facilities provide all of the necessary features to provide independent living. I noted the microwave oven in unit 'A' and, therefore, this unit would not necessarily need to use the communal main cooker. It would also have been a relatively simple matter to provide the other units with small scale cooking facilities such as small hobs or microwave ovens.

9. As a matter of fact and degree, therefore, it seems to me that the house had, at the time the notice was issued, been converted into three separate units. These works in themselves would require planning permission and I do not accept, therefore, that the works carried out are permitted development. I acknowledge the appellants' intentions to now operate the dwelling as a HMO and that this is what was occurring at the time of my visit. But, on the balance of probability, I conclude that what is alleged in the notice has, as a matter of fact, occurred. The arguments put forward on behalf of the appellants do not convince me that this is not the case and so the appeal fails on ground (b).

The appeals on ground (f)

10. This is made on the basis that the requirements are excessive and that it is not unreasonable for tenants to be able to retain their own kitchen sinks and

wc/shower facilities within the units. It is argued that the Council cannot stipulate that a house must have only one bathroom and that it is very common for bedrooms to incorporate en-suite bedrooms. It is also stated that the removal of the sinks would alleviate the Council's concerns.

11. Having considered how the appellants now operate the premises; having noted the main parties' cases and having noted the existing layout to all three levels, I agree that it is excessive to require removal of two of the three bathroom suites. In my view it is reasonable to allow the ground floor unit to have its own wc/shower facilities and for the upper floors to also have a separate facility.

12. I shall, therefore vary the notice so that the facilities on the ground floor are not required to be removed and that only either the facilities on the first floor or the second floor need be removed. This will leave one wc/shower facility each for the units as they currently operate. Nor do I consider it necessary to remove the locks to the doors or to alter any partitions and again I shall vary the notice accordingly.

13. However, with regard to the kitchen areas I do not find the requirements to be excessive. With separate kitchens on each level, together with separate wc/shower facilities, there would still be the potential to have three self-contained units in the premises. Again I acknowledge the owners' intention with regard to how they now wish to operate the property but the fact remains that the notice was issued because the dwelling was converted in such a way so as to provide 3 separate units of accommodation.

14. If the potential for such use is to be removed so that the property can only operate as a HMO or revert back to a single dwelling house, I consider it necessary and appropriate to leave the requirement relating to removal of the kitchen areas as drafted but with the exception of requiring the removal of 'kitchen style wall and floor cupboards'. I do not consider that this part of the requirement is necessary.

Formal Decision

15. The appeal is allowed in part on ground (f) only and I direct that the notice be varied by:

1. Deleting requirement No (ii) (in Section 5) in full.
2. Deleting the words 'kitchen style wall and floor cupboards' in requirement No (iii) (in Section 5).
3. Deleting requirement No (iv) (in Section 5) as drafted and replacing it with a new requirement No (iv) to read:
 - ' Remove either the bathroom suite (wc/shower facilities) to the first floor (unit B) or the bathroom suite (wc/shower facilities) on the top floor (unit C) so that there are only two bathroom suites (wc/shower facilities) in the premises. This will include all fixtures and fittings, showers, basins, wcs and hot and cold water services and foul waste drainage systems.

16. Otherwise the appeal is dismissed and the enforcement notice is upheld as varied above.

Anthony J Wharton

Inspector