



SECTION 174 APPEAL- 19 Lancaster Grove London NW3 4EX

GROUNDS OF APPEAL

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(a) That planning permission should be granted for what is alleged in the notice.

There was no intention to carry out unauthorised work and please note an Application for Building Regs was made and approved.

The fact the property has an HMO License may have “muddied the waters” regarding whether planning permission was required.

Review of the Planning Register revealed the existence of the Lawful Development Certificate (LDC) granted in 2015 in respect of the property as 20 self-contained residential units.

While acknowledging the conversion undertaken does not meet the Council’s internal space standards a practical way forward would be to retain Units 13a and 13b (on the upper ground floor) as built and amalgamate Units 15 and 15a (on the lower ground floor) into a single Unit 15.

The attached floor plans confirm the floor space involved is broadly similar and the solution suggested would maintain the status quo as per the LDC granted, namely as 20 Self-contained Residential Units .

The benefits of this approach would be:

- The conversion carried out could remain and not result in removal of the newly installed kitchenettes and bathrooms in order to reinstate the single unit.
- The amalgamation of the two Units on the lower ground floor i.e. 15 and 15a would offer the opportunity to modernise and renovate the space in creating a single unit.
- All the works proposed would be internal and not require planning permission and the overall Number of Units would remain as per the LDC granted.
- The existing Tenancies will not have to be terminated and can continue as present.

A S106 Planning Obligation will be submitted in support of the ground (a) appeal to ensure the amalgamation of the two Units on the ground floor is carried within a specified time period should the appeal be allowed and planning permission granted for retention of the existing units 13a and 13b on the upper ground floor.

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The Council's concern about parking impacts (Reason (c) for issuing the Enforcement Notice) would also be addressed by the S.106, as the Appellant is willing to give up Residents permit rights for some of the units. (Currently, all 20 units which are Lawful by virtue of the LDC) have the right to obtain Residents Parking permits. This limb of the S.106/S.16 Planning Obligation would therefore be a "net gain" for the Council in terms of Transportation matters.

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Prior to commencing work it will be necessary to either provide alternative accommodation for the existing Tenants of Flats 15 & 15a which may take 4-8 weeks or serving section 21 notice to leave as they are both in periodic tenancies (versus tenants of Flats 13a & 13b which have 12 month tenancies which expire February and March 2024).

(b) That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.

(c) That there has not been a breach of planning control (for example because permission has already been granted, or it is "permitted development").

The Enforcement Notice describes the alleged breach as

“ Without planning permission: the subdivision of a rear ground floor studio flat (Flat 12) to create two studio flats with mezzanine floors (Flats 13a and 13b).”

However, the creation of the mezzanine floor/floors does not constitute development which requires planning permission. There has therefore not been a breach of planning control in this regard.

The remainder of the description of the alleged breach turns on "subdivision", meaning works. The carrying out of internal works does not of itself constitute development which requires planning permission.

(d) That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.

(e) The notice was not properly served on everyone with an interest in the land.
We have only very recently been instructed and are currently investigating whether service was properly effected.

(f) The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections

The steps required in the Enforcement Notice are -

“ 1. Cease the use of the 2x rear ground floor studio flats with mezzanine floors known as 13a and 13b as residential units;

2. Remove the partition wall which facilitates the use as two residential units;

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3. Remove the mezzanine level;

4. Remove one kitchen;

5. Reinstate one residential unit as per the approved drawings for 2015/0268/P attached at appendix A;

6. Make good on any damage caused as a result of the works and remove any resulting debris from the site. “

The above steps are excessive for, inter alia, the reasons set out below.
Commenting in turn on the above –

1. This contains elements which go beyond ceasing to use as two residential units. The wording would arguably prohibit use of any part of the area which is subject to the Enforcement Notice as a residential unit. Reference to the mezzanine floors should be deleted; they do not require planning permission (see Ground (c) above). The mezzanine floor(s) could anyway provide valuable additional usable space (e.g. as a sleeping / reading platform) and their retention is compatible with the Council's rationale for the Enforcement Notice.
2. Retention of part of the partition wall is compatible with the Council's rationale for the Enforcement Notice. It would also likely be necessary in order to retain the mezzanine floor(s), whether in whole or in part.
3. See comments above on 1.
4. -
5. This would require internal works which are not necessary in order to address the “planning harm” which is understood to be behind the service of the Enforcement Notice, i.e. the use of the Appeal site as two studios. Reference to “as per the approved drawings for 2015/0268/P” is an excessive requirement. The location of the bathroom/w.c. and kitchen facilities within the flat which was formerly known as no. 12) is not relevant to the Council's reasons for serving the Enforcement Notice; they are matters of internal arrangement, which do not require planning permission.



6. Appears excessive. It is only when new occupants are due to move in that the need to make good the internal decoration and clear the Appeal site of debris would arise.

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(g) The time given to comply with the notice is too short

The studios are tenanted, an extension of the Compliance Period may therefore be necessary in order to facilitate vacation of each studio without undue distress/inconvenience to the tenant(s). This Ground will be reviewed as the Appeal progresses, in light of the circumstances of the Tenant(s).

The Appellant reserves the right to revise, supplement, develop or alter the above Grounds within its Appeal Statement.

SJP/13/09/2023