

Flat Over Shop is a House

The Leasehold Reform Act 1967 gives a tenant of a leasehold house the right to acquire the freehold or an extended leasehold of a 'house and premises' when certain conditions are satisfied. There is no need for the tenant to actually live in the house, which must be a building that is designed or adapted for being lived in, 'notwithstanding that the building is not structurally detached, or that it was not solely designed or adapted for living in'. Case law has deemed that the definition means that residential accommodation above a shop can be a house for the purposes of the Act.

In spite of this, Barnet London Borough Council recently attempted to deny the tenant of a property in Edgware the right to buy residential accommodation above a parade of shops on the grounds that the tenant did not live in the accommodation, the accommodation was built as retail property and residential accommodation and that the accommodation and commercial premises were separate. The Council was unsuccessful, the court concluding that the premises met the definition of a house.

As a result, the tenant has been allowed to purchase the freehold of the property at a discount to market value in excess of £100,000.