



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Communities and Local Government

Decision date: 16 June 2016

Appeal ref: APP/U5930/C/15/3141594

Land at 47 Chelmsford Road, Walthamstow, London E17 8NN

- 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 brought by Mr Rizwan Kajee against an enforcement notice issued by the Waltham Forest London Borough Council.
- The notice was issued on 2 December 2015.
- The breach of planning control as alleged in the notice is "1 Without planning permission, the material change of use from a single dwelling house into two self-contained residential flats; 2 The associated building works to convert the single dwelling into two self-contained residential flats".
- The requirements of the notice are as described in the annex to this decision.
- The period for compliance with the requirements of the notice is "Within 6 months after this notice takes effect".
- The appeal is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The appeal is dismissed and the enforcement notice is upheld without variation.

Reasons for the decision

1. The basis of the appellant's case is that he requires more time to comply with the notice in order to secure possession of both parts of the property and to employ builders to carry out the necessary works. The appellant will need to give the current tenants at least two months notice and he will require further time should the tenants refuse to leave on time. He contends that he would like to give them as long a period as possible to find alternative accommodation due to the housing shortage. The appellant requests that the period for compliance with the requirements of the notice be extended to 12 months.
2. While I note the points made by the appellant, they have to be weighed against the stated harm caused by the unauthorised development to the surrounding area, which has persisted since at least last summer. I am also mindful that almost 6 months have elapsed since the appeal was submitted with enforcement action effectively suspended. Therefore, it is reasonable to assume that in that time the appellant will have given the tenants the required notice and taken steps to employ builders to carry out the works. The possible problems the appellant suggests he may have in evicting the current tenants are solely

hypothetical and can only be considered as a matter of speculation at this stage. When deciding on what is a reasonable compliance period, it is reasonable to work on the assumption that tenants will comply with the eviction notice, rather than the assumption they will refuse to leave. Nevertheless, should the appellant experience any genuine problems in this regard, the Council have the power, under section 173A (1) (b) of the amended 1990 Act, to extend the compliance period themselves, if they see fit. Whilst this is entirely a matter for the Council's discretion, it would be open to the appellant to ask for a further short extension of time, should that prove necessary.

3. As the compliance period will begin again from the date of this decision, the appellant will effectively have had just short of the 12 months he desires in which to comply with the notice. Therefore, I consider the 6 month compliance period to be both proportionate and reasonable and would achieve an appropriate balance between the need to bring the harm caused by the unauthorised use to an end and the need of the tenants to look for alternative accommodation. In these circumstances, I am not satisfied there is good reason to extend the compliance period further and consider the 6 months given is sufficient to meet the requirements of the notice. The ground (g) appeal fails accordingly.

Formal decision

4. For the reasons given above, the appeal is dismissed and the enforcement notice is upheld.

K McEntee

Annex to decision

- 1) Cease the use of the premises as two self-contained residential units and cease the use of each flat as a separate dwelling.
- 2) Restore the property to its authorised use and to its original configuration and layout as a single dwelling house.
- 3) Remove all kitchen facilities contained within the first floor flat, including any sink, cupboards, fridges, cookers, hobs and microwaves, so that only one kitchen remains in its original location.
- 4) Remove all fixtures, fittings and self-containment works, in particular any materials used in connection with sub-division of the property, including partition-walls and internal door divisions.
- 5) Remove any additional gas and electricity meters from the site so only one meter for each utility remains in its original location.
- 6) Remove all fixtures and fittings, debris and general detritus resulting from the works required by steps 1,2,3,4 and 5 above.