

Appeal Decisions

Site visit made on 13 September 2016

by Martin Joyce DipTP MRTPI

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

Decision date: 27 September 2016

Appeal A: APP/E5330/C/16/3145805

1 St Mary Street, Woolwich, London SE18 5AN

- 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 P Brempong against an enforcement notice issued by the Royal Borough of Greenwich Council.
- The enforcement notice, LPA Ref: E/15/0228, was issued on 21 January 2016.
- The breach of planning control as alleged in the notice is, without planning permission, the carrying out of development by the material change of use of the property from a dwelling house (Class C3 Use Classes Order 1987) to use as a guest house (Class C1 Use Classes Order 1987).
- The requirements of the notice are to:
 - (i) Cease the use of the property as a guest house and return the property to use as a dwelling house;
 - (ii) Remove all fixtures and fittings from the property associated with use as guest house; and,
 - (iii) Cease and remove all advertising of the property as a guest house.
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the grounds set out in Section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. The deemed planning application also falls to be considered.

Summary of Decision: The appeal is dismissed and the enforcement notice, as corrected, is upheld.

Appeal B: APP/E5330/W/16/3144355

1 St Mary Street, Woolwich, London SE18 5AN

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr P Brempong against the decision of the Royal Borough of Greenwich Council.
- The application, Ref: 15/2848/F, dated 11 September 2015, was refused by notice dated 24 November 2015.
- The development proposed is retrospective permission to retain existing change of use to guest house.

Summary of Decision: The appeal is dismissed.

Preliminary Matters

1. Both appeals before me concern the same development – the change of use of a two-storey, three-bedroom terraced dwellinghouse to use as guest house. The property is located on the northern side of St Mary Street and is of fairly conventional layout, with a lounge/dining room, occupying the full width of the property, a kitchen and a utility/reception area on the ground floor. A central
-

stairway leads to a single and two double bedrooms upstairs, together with a toilet and a bathroom. All bathing, cooking and laundry facilities are shared by guests, as there is no resident housekeeper or manager of the property.

Matters Concerning the Notice

2. The enforcement notice seeks, amongst other things, the discontinuance of the use of the property as a guest house and the resumption of its lawful use as a dwellinghouse. However, it has been found, in pertinent case law¹, that a notice cannot require a former use to be resumed. The notice therefore requires correction so as to delete this element. I am satisfied, however, that I can use the powers available to me under Section 176(1)(a) without causing injustice to either party, thus I shall correct the notice accordingly.

APPEAL A ON GROUND (a) and APPEAL B

Main Issue

3. The main issue in these appeals is the effect of the use on the living conditions of neighbouring occupiers in terms of noise and general disturbance.

Reasoning

4. The use of the property as a guest house was started in February 2008 following a series of workshops set up by the Council aimed at catering for the accommodation of guests for the Olympic Games held in London in 2012. This included events held in the Royal Borough of Greenwich. The appellant states that clients now are casual contractors, Crossrail workers, hospital staff including doctors, and Belmarsh Prison staff who normally come and work in the locality from Monday to Friday, and return to their permanent homes at the weekends.
5. The Council's concern about this use arises solely from its unsupervised nature, as other relevant planning considerations, such as the loss of a small-sized dwelling and the need to site guest house or bed and breakfast accommodation close to existing transport facilities is met, in accordance with Policies H(a) and EA5 of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies 2014 (LP). It is also considered that there would be no detrimental effect on traffic movements in the area through any increase in the number of visitors to the property. However, the Council consider that the amenity of neighbouring occupiers would be adversely affected in terms of noise and disturbance as there is no information as to where the owner of the property would stay, and the use is, therefore, unsupervised. It thereby conflicts with Policy E(a) of the LP.
6. The appellant claims that the guest house use does not generate any noise as it is essentially akin to a residential use, and that it has been in operation for several years without complaint. There is no external signage, thus it does not attract passing trade, rather all bookings are made via the internet. However, it is clear, from the undisputed representations of a neighbour, that disturbance has been caused, with noise from guests both during the day and at night, including talking and laughing outside the property, and also fighting between guests. Reference is also made to the need to have called the police on some occasions.

¹ *Lipson v Secretary of State for the Environment* [1976] 33 P and CR 95.

7. Policy E(a) of the LP states, amongst other things, that planning permission will not normally be granted where a proposed development or change of use would generally have an adverse effect on the amenities of adjacent occupiers or uses and, in this case, it is clear that the use has had an adverse effect. Whilst noise and disturbance may not be a frequent occurrence, it is more likely to occur if the property owner, or a manager, is not resident and no other provision has been made to ensure that guests behave in a normal civilised manner. I also noted that there is no separation at the rear of the property from the adjoining garden at No 3, and only low fences both to the west and between Nos 3 and 5, thus any untoward noise from guests using the garden area, as is likely on warm evenings, is liable to cause disturbance to neighbours.
8. The appellant has not put forward any proposals to show how the property could be managed to ensure that living conditions of neighbours would remain unaffected by behaviour that would cause noise and disturbance. In such circumstances I agree with the Council that the use is unacceptable and would conflict with their policies. In reaching this conclusion I am also mindful of the fact that planning permission, once granted, would run with the land and that future owners may have even less control over occupiers of the guest accommodation, thus the situation could even be worsened.
9. My conclusion on the main issue is that the guest house use would be likely to lead to unacceptable noise and disturbance for neighbouring occupiers, contrary to Policy E(a) of the LP. The appeals on ground (a) and against the Council's refusal of planning permission therefore fail.

APPEAL A ON GROUND (g)

10. The appellant contends that two months is an unreasonable period to comply with the requirements of the notice as it is insufficient time for him to identify alternative premises and relocate his business, including through the purchase of an interest in such premises and the need to obtain planning permission. However, the notice does not require the relocation of the guest house use, merely the cessation of the current use, including advertising, and the removal of fixtures and fittings associated with it. There is no suggestion, or supporting evidence, that the appellant has firm bookings which would cause potential guests to have to seek alternative accommodation or that any alteration works could not be undertaken in the required timescale. In all these circumstances, therefore, I see no grounds for any extension to that period, thus the appeal on ground (g) fails.

Other Matters

11. I have taken account of all other matters raised in the written representations but they do not outweigh the conclusions I have reached in respect of the main grounds and issues of these appeals.

Conclusions

12. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

FORMAL DECISIONS

Appeal A: APP/E5330/C/16/3145805

13. The enforcement notice is corrected by the deletion, in Section 7(i), of the words "and return the Property to use as a dwelling house". Subject to this correction, the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under Section 177(5) of the 1990 Act as amended.

Appeal B: APP/E5330/W/16/3144355

14. The appeal is dismissed.

Martin Joyce

INSPECTOR