
Appeal Decision

Site visit made on 7 February 2017

by P N Jarratt BA DipTP MRTPI

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

Decision date: 13 February 2017

Appeal Ref: APP/R5510/C/16/3156384
97 Adelphi Crescent, Hayes, UB4 8NA

- 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 Dean Smith against an enforcement notice issued by the Council of the London Borough of Hillingdon.
 - The enforcement notice, numbered ENF/515/16, was issued on 11 July 2016.
 - The breach of planning control as alleged in the notice is the material change of use of the outbuildings and land adjacent to the hairdressing business (shown hatched in blue on the site plan attached to the notice).
 - The requirements of the notice are (i) to cease the unauthorised use of the outbuilding and land adjacent as a hairdressing business, and (ii) remove all fixtures, fittings and signage in association with the hairdressing business from the land.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (c) and (f) 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 does not fall to be considered.
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Procedural Matter

1. The breach of planning control as alleged in the notice is the material change of use of the outbuildings and land adjacent to the hairdressing business. However, the planning unit is the residential property at 97 Adelphi Crescent. Accordingly, the allegation is more accurately described as the 'material change of use from use of the appeal property for residential purposes to a mixed use for residential and hairdressing business purposes in the outbuildings and land adjacent (shown hatched in blue on the site plan attached to the notice)'.
2. I can correct the notice to this effect without prejudice to the parties.

Decision

3. I direct that the enforcement notice be corrected by the deletion of the words "material change of use of the outbuildings and land adjacent to the hairdressing business (shown hatched in blue on the site plan attached to the notice)" in the allegation and their replacement with the words "material change of use from use of the appeal property for residential purposes to a mixed use for residential and hairdressing business purposes in the outbuildings and land adjacent (shown hatched in blue on the site plan attached to the notice)". Subject to this correction the appeal is dismissed and the enforcement notice is upheld.
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The appeal site

4. The appeal property is a semi-detached dwelling in a residential area of similar properties. To one side is an outbuilding that no longer serves its original purpose as a garage. This is set behind a small enclosure to the side of the house.
5. At the time of my inspection, the business was not operating, the outbuilding was being used for storage purposes for domestic and business items, there was no external advertising of a hairdressers business, a quantity of domestic waste was being stored externally and an agent's board near the front boundary advertised the dwelling was for sale. The appellant indicated that he had ceased the business use and that he was moving.

The appeal on ground (c)

6. An appeal on this ground is that there has not been a breach of planning control.
7. The appellant considers that the use of the appeal premises as a hairdressers business is permitted development. He was advised to this effect by the Council and that he has complied with the advice received. He trains in barbering and has helped others to start their own businesses using 2 chairs for trainees.
8. At the time of the Council's inspection in June 2016, the appellant confirmed that a business use had commenced in February 2016 trading as 'Harry's Barbers'. The Council's inspection revealed that the outbuilding appeared to be able to cater for 4 clients at any one time and that there was an open area in front of the outbuilding.
9. It is a matter of fact and degree as to whether a material change of use had taken place. Small-scale business uses operated within residential premises that are ancillary to the residential use and generate minimal impact on the area may not need planning permission if the change of use is *de minimis* and not material. However, where there is a significant difference in the character of the activities from what has gone before, then a material change of use may have occurred which requires planning permission. In this case, the use of an outbuilding as a hairdressers business whether for trainees or clients, the comings and goings of clients, the parking of their vehicles, the use of the external enclosed area in connection with the business and external advertising, have led to a significant difference to the activities normally associated with the use of the property for residential purposes. It does not have the characteristics of an ancillary use but as an additional primary use within the planning unit. As a matter of fact and degree, a material change of use has occurred from use of the appeal property for residential purposes to a mixed use for residential and hairdressing business purposes.
10. As no planning permission exists for this material change of use the appeal on this ground fails.

The appeal on ground (f)

11. An appeal on this ground is that the steps required to comply with the notice are excessive. The appellant state that he is able to provide 2 off-road parking spaces and can control the number of clients but these relate to planning

merits which would normally have been considered under a ground (a) appeal had one been made.

12. The purpose of the requirements of a notice is to remedy the breach by discontinuing any use of the land or by restoring the land to its condition before the breach took place or to remedy an injury to amenity which has been caused by the breach. It is necessary for the requirements to match the matters alleged and I consider that the requirements of the notice in this case do not exceed what is necessary to remedy the breach.

13. The appeal on this ground fails.

P N Jarratt

Inspector