The Planning Inspectorate

Appeal Decision

Hearing Held on 24 September 2019
Site visit made on 24 September 2019

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2019

Appeal Ref: APP/N4720/C/18/3202988
Land at Block B (excluding land at Flat No 149) 115 - 153 The Chandlers, Leeds LS2 7EJ

- 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 The Bridge Properties and Investments Limited against an enforcement notice issued by Leeds City Council.
- The enforcement notice was issued on 5 February 2018 .
- The breach of planning control as alleged in the notice is Without planning permission, the material change of use from residential use (Class C3) to a mixed use of: residential use (Class C3) and holiday letting/commercial (leisure or business) use (sui generis).
- The requirements of the notice are To cease the use of the Land for holiday letting /commercial (leisure or business) use.
- The period for compliance with the requirements is twenty eight days.
- The appeal is made on the grounds set out in section 174(2) (b), (c), (e), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is invalid and there is therefore no appeal to be determined.

Application for costs

1. At the Hearing an application for costs was made by Leeds City Council against City Centre Apartments Limited (CCAL) and The Bridge Properties and Investments Limited (BPIL). This application is the subject of a separate Decision.

Preliminary Matters

2. Prior to the Inquiry, the appeal by CCAL was withdrawn, along with grounds (b), (e) and (g). The remaining appellant, BPIL, continued to pursue the appeal on grounds (c) and (f).

3. At the beginning of the event, which was not attended by CCAL, the remaining appellant (BPIL) set out that they were under the impression that the appeal would no longer proceed as an Inquiry following the withdrawal of various grounds, and in any event were not in a position to proceed in accordance with the Inquiry format. Whilst I considered that it remained appropriate to hold an Inquiry, given the issues raised in the ground (c) appeal, I decided, taking into account BPIL's circumstances, the length of time the appeal had been pending and the inconvenience that would be caused by re-scheduling, that to adjourn the event would be disproportionate. It was therefore agreed by the parties that the procedure would be changed to a Hearing.

4. CCAL were not present at the Hearing and therefore following the submission of the Council's costs application, I said I would allow both CCAL and BPIL a period of seven days to respond.

Reasons

5. At the Hearing, the Council raised the issue that it considered that BPIL did not benefit from sufficient 'locus' to be regarded as an appellant, on the basis that its request for appellant status was made after the notice would have come into effect.

6. The enforcement notice was due to come into effect on 7 March 2018. An appeal was lodged on behalf of CCAL on 6 March 2018. A note on the appeal form requested BPIL be added as an interested party. It was later accepted by the Planning Inspectorate (PINS), following a request for clarification, that BPIL be given appellant status[1].

7. Section 174(3)(a) of the Act sets out that an appeal should be made by giving written notice to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect. It is undisputed that BPIL did not make an appeal against the notice in time. Notwithstanding the aforementioned PINS letter, both BPIL and CCAL were professionally represented by the same agent and as such it could reasonably be expected that the agent advising BPIL would have known that its purported status as appellant would have been in breach of section 174(3)(a).

8. Given that the only valid appeal (by CCAL) was withdrawn and any purported appeal by BPIL was not in time, it was invalid and accordingly there is no appeal to be determined. I therefore take no further action with regard to this matter.

Formal Decision

9. The appeal is invalid and there is therefore no appeal to be determined.

Roy Merrett

INSPECTOR

[1] See relevant PINS correspondence dated 9 April 2018 and Milners letter dated 13 April 2018.

APPEARANCES

FOR THE APPELLANT:

Abubaker Sheibani	BPIL
Andrew Price	Solicitor (Milners)

FOR THE LOCAL PLANNING AUTHORITY:

Juan Lopez	Barrister
Helen Farrer	Planning Compliance Manager
Paul Wray	City Councillor

Documents Submitted at Hearing:

1. Council's costs application
2. Various correspondence between the appellant, the Council and PINS relating to the appeal.
3. S174 Town and Country Planning Act 1990
4. The Government's Planning Practice Guidance relating to Appeals
5. Procedural Guide – Enforcement notice appeals – England - 23 March 2016

Documents submitted following Hearing:

1. Appellant's response to Council's costs application and related dialogue