



Appeal Decision

Site visit made on 8 January 2020

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 February 2020

Appeal Ref: APP/E5900/C/19/3227304

Land at North East Junction of Manilla Street and Tobago Street,

- 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 John Reddington on behalf of J. Reddington Ltd. against an enforcement notice issued by the Council of the London Borough of Tower Hamlets.
 - The enforcement notice was issued on 18 March 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the change in use of the land to a construction staging and preparation site and storage area for associated material.
 - The requirements of the notice are
 - i. Cease the use of the land as a construction staging and preparation site and storage area for associated material.
 - ii. Remove from the land all materials associated with the unauthorised use of the site
 - iii. Make good any damage to the property as the result of carrying out these works
 - The period for compliance with the requirements is 1 month.
 - The appeal is proceeding on the grounds set out in section 174(2) (b) and (c) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

Preliminary Matter

2. The appellant has pointed out that the notice does not confirm what was occurring on site prior to the alleged material change of use. However, it has been held that it is not necessary to do so. I also note that the notice does not specify which paragraph of s171(1) applies. However, it is clear from the notice, in particular in section 3, that the allegation relates to the carrying out of development without planning permission. The notice sets out clearly what the alleged breach of planning control is and what must be done to remedy that. The notice is therefore valid.

The appeal on ground (b)

3. To succeed on this ground, the onus is upon the appellant to demonstrate on the balance of probabilities that the allegation has not occurred as a matter of fact.
4. The planning history of the site, as outlined in the Council's appeal statement, indicates that the site is vacant following the demolition of a terrace of five

dwelling houses, a print works, an engineering workshop and a warehouse. This has not been disputed by the appellant.

5. The Council state that during an Officer site visit on the 18 April 2018, on site workers at the appeal site confirmed that the area was used to store materials and to pour concrete into moulds to then be taken to the Landmark Pinnacle construction site. The Council also state that follow up visits on 16 May 2018 and 12 June 2018, confirmed that the site was still in use as a preparation and staging area. Photographs have been submitted to support this view.
6. Furthermore, photographs¹ of a 'Community Leaflet' which had been displayed outside of the site taken by the Council states that "*Dear neighbours, we would like to inform you that we are using this plot of land to pre-fabricate concrete columns which will be used in the Landmark Pinnacle Development*". The contact details on this leaflet include those of the appellant, J. Reddington.
7. The appellant states that the site is not being used for the use alleged but is being used as a site compound area for the purposes of storing materials, principally glazing and cladding units which are then used as part of the construction of a nearby site at Wood Wharf.
8. However, the Council advise that there has been no mention of the Wood Wharf site within any correspondence between the respective main parties. The Council also advise that the Construction Management Plan (CMP) for the Wood Wharf site does not mention the appeal site as a compound/storage area for Wood Wharf site. This has not been disputed by the appellant.
9. On the balance of probabilities, and based on all the evidence before me, I conclude that the appellant has not shown that the alleged change of use has not occurred.
10. Accordingly, the appeal on ground (b) must fail.

The appeal on ground (c)

11. Under this ground of appeal, it is contended that there has been no breach of planning control as the operations alleged in the notice are permitted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO 2015), Part 4 of Class A, 'temporary buildings and structures' of Schedule 2, which allows for "*the provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land*". In particular, the appellant states that the site is being used as a site compound area in relation to the Wood Wharf development site.
12. However, the Council highlight that the appeal site lies approximately 1 mile away (by road) from the Wood Wharf Site and have provided a map to demonstrate the relative distance between the respective sites. This clearly demonstrates that the appeal site cannot be described as adjoining land with any reasonable definition of the word 'adjoining'. As such, the development does not comply with Part 4 of Class A of Schedule 2 of the GDPO 2015.

¹ Photographs taken on taken 12 June 2019.

13. Planning permission is required for the change of use from a vacant site to a construction staging and preparation site and storage area. There is none in place and the change of use is not permitted development. There has therefore been a breach of planning control and the appellant has not discharged the onus on him to demonstrate otherwise.

14. Accordingly, the appeal fails on ground (c).

Conclusion

15. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

R Satheesan

INSPECTOR