
Appeal Decision

by K Stephens BSc (Hons), MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2020

Appeal A Ref: APP/E5900/C/19/3238451

Appeal B Ref: APP/E5900/C/19/3238454

Units 114 and 134, 100-136 Cavell Street, London E1 2JA

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Foyso Miah (for Tanzeel) against an enforcement notice issued by the Council of the London Borough of Tower Hamlets.
- The enforcement notice was issued on 29 August 2019.
- The breach of planning control as alleged in the notice is: without planning permission the unauthorised change of use of the property from office (B1) to educational (D1) use.
- The requirements of the notice are:
 - 1) Cease the use of the property as a D1 Educational use;
 - 2) Remove all fixtures, fittings and items associated with this unauthorised use from the Property; and
 - 3) Make good any damage to the building caused by compliance with Steps 1 and 2 above, and remove any resulting debris from the land.
- The period for compliance with the requirements is 6 months.
- The appeals are proceeding on the grounds set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended.

Summary decision: The appeals succeed in part and the enforcement notice is upheld as varied in the terms set out below in the Formal Decision.

Procedural matter

1. Since the units are in the same building and the considerations in both appeals are the same, I have determined both together.
2. It has not been necessary to do a site visit, as I am able to proceed to a decision based on the submitted evidence from both parties.

The appeals on ground (g)

3. Ground (g) is that the period specified for compliance with the notice falls short of what is reasonable. The notice states six (6) months. The appellant wants until January 2021, a little over a year, which is the remainder of the school's tenancy, in order to find alternative accommodation.
4. The appellant has suggested a longer compliance period based around the cessation of the school's tenancy. I have not been provided with a copy of the tenancy agreement. The appellant has also submitted a Transport Assessment to address the council's concerns relating to highways, transportation and parking issues arising from pupils visiting either unit.
5. The appellant has not advanced any other argument or provided any substantive evidence to show that ceasing the use and the physical works to

remove all fixtures, fittings and items, and make good any resulting damage would be problematic or take longer than 6 months. Looking at the submitted photographs in both parties' statements, and with no evidence to the contrary, the steps required to be taken should be achievable in six months. Therefore I find the period specified for compliance in the notice to be reasonable.

6. However, the recent Covid-19 outbreak has had a profound effect on all areas of life in the UK. Due to current government restrictions on non-essential travel and social distancing, community and educational facilities such as this should be closed. The situation is fluid and it is uncertain how long the current restrictions associated with the pandemic will last. As a result of the restrictions, there may be delays finding alternative accommodation with some letting agents being closed or operating different working practices, and possible difficulties in finding companies to do the works.
7. I note the Council's continued concerns in their Further Comments about traffic problems associated with the use. However, the current 'lockdown' should see less traffic in association with the use, so the Council's concerns about traffic movements to and from the facility will be lessened during the current Covid-19 restrictions.
8. Taking into account all the representations of the parties and the particular circumstances likely to affect the period for compliance in this appeal, I consider an extension of the compliance period to 9 months would provide 3 months' flexibility in recognition of the Covid-19 situation, on top of the Council's 6 months. Therefore, under s176(b) of the Act, I will vary the notice accordingly.
9. Section 173A(1)(b) provides that local planning authorities may waive or relax any requirement of an enforcement notice and, in particular, may extend any period specified in accordance with s173(9). That would be entirely a matter for the Council subject to normal procedures for reviewing the decisions of an administrative body.

Other Matters

10. I have been made aware of a pending planning application¹ for "Retrospective temporary change of use from office (Use Class B1) to evening and weekend school (Use Class D1) until 1 January 2021". I have not been informed if the application has been determined. However, it has not been determinative in my decision on the case before me.

Conclusion

11. For the reasons given above I conclude that a reasonable period for compliance would be 9 months. I am varying the enforcement notice accordingly, prior to upholding it. The appeals on ground (g) succeed to that extent.

Formal Decision

12. **Appeal A** is allowed on ground (g), and it is directed that the enforcement notice be varied by: *Deletion* of 'Six (6) months' and *substitution* with '9 months'.

Subject to these variations the enforcement notice is upheld.

¹ LPA ref: PA/19/01886

13. **Appeal B** is allowed on ground (g), and it is directed that the enforcement notice be varied by: *Deletion* of 'Six (6) months' and *substitution* with '9 months'.

Subject to these variations the enforcement notice is upheld.

K Stephens
INSPECTOR