



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 21 April 2020

Appeal ref: APP/U5360/C/19/3241340

Land at 20 Grosvenor Way, Hackney, London, E5 9ND

- 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 brought by Mr Ezriel Brinner against an enforcement notice issued by the London Borough of Hackney.
- The notice was issued on 11 October 2019.
- The breach of planning control as alleged in the notice is "Without planning permission, the material change of use of the property from a mixed use of the property from a mixed use comprising of light industrial and storage (class Sui Generis) to a House of Multiple Occupation (HMO) (class Sui Generis)".
- The requirements of the notice are: "1. Cease the residential use of the Property; 2. Remove all internal partitions, doors, kitchen and bathroom fixtures and fittings that facilitate the use of the property as residential; 3. Remove all materials, debris, waste and equipment resulting from compliance with the other requirements of the notice from the property and its premises".
- The time period compliance with the notice is "6(six) months after this notice takes effect".
- The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The appeal is dismissed and the enforcement notice is upheld without variation.

Reasons for the decision

1. The main basis of the appellant's case is that he needs more time to comply with the notice as there are currently tenancy agreements in place with varying expiry dates. He also argues that extra time will be needed to take eviction action through the courts process and requests the compliance period be extended to 2 years. However, to grant such an extension would be tantamount to granting a temporary planning permission, which is not within my powers to do as an appeal has not been made under ground (a). In an appeal under ground (g), I can only consider whether the period for compliance with the requirement of the notice is too short. In any event, it appears from the evidence that all tenancy agreements will have expired by the end of the 6-month compliance period, which will begin again from the date of this decision. I consider this period to be both proportionate and reasonable and provides an appropriate balance between the needs of the current tenants to seek out alternative accommodation, and for the appellant to carry out the required works, and the need to bring the harm caused by the unauthorised use to the surrounding area to an end.

2. With regards to the appellant's point that more time is required in order to take matters through the courts to carry out eviction, there is no evidence before me to suggest that such action will be necessary. I cannot justify extending the compliance period based on matters that are pure speculation at this stage. Therefore, on the evidence before me, I cannot conclude there is good reason to extend the compliance period further and consider the 6 months given in the notice to be adequate. The ground (g) appeal fails accordingly.
3. However, while I am dismissing the appeal, I am also conscious of the current situation with regard to the COVID-19 pandemic. This could potentially impact on the tenants' ability to seek out alternative accommodation and for the appellant to carry out the necessary works to comply with the requirements of the notice. Therefore, should the appellant experience any genuine difficulties it is open to him to submit a request to the Council to use their powers under section 173(1)(b) of the 1990 Act to extend the compliance period themselves, should they be satisfied there is justification for doing so.

Formal decision

4. For the reasons given above, the appeal is dismissed and the enforcement notice is upheld.

K McEntee