



Appeal Decision

by Ken McEntee

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

Decision date: 11 May 2020

Appeal ref: APP/T3725/C/19/3242977

Land at 19 Camberwell Terrace, Leamington Spa, Warks, CV31 1LP

- 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 R Scimeca (RLS Property Ltd) against an enforcement notice issued by Warwick District Council.
- The notice was issued on 29 November 2019.
- The breach of planning control as alleged in the notice is "Without planning permission the change of use from a dwellinghouse (Class C3) to a House in Multiple Occupation (Class C4) (hereinafter known as "the Breach")".
- The requirements of the notice are: "[i] Permanently cease use of the Land as a House in Multiple Occupation (Class C4) and for any other multiple occupation use. [ii] Reinstate the Land to its former use as a single dwelling house (Class C3)".
- The time period for compliance with the notice is "6 months from the date 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.

Procedural matters

1. The appellant has made an application for costs against the Council. This is the subject of a separate decision attached to this one.

Reasons for the decision

2. The main basis of the appellant's case is that he requires more time to comply with the notice as there is a tenancy agreement in place which expires on 30 June 2019, and in order to allow for planning appeal APP/T3725/W/19/3240470 to be decided. However, I am mindful that some 5 months have already elapsed since the appeal was submitted with enforcement action effectively suspended. As the compliance period will begin again from the date of this decision the current tenant of the property will have had some 11 months in order to seek out alternative accommodation. I consider this period to be more than reasonable. With regards to the planning appeal, I note that a decision was issued on 5 May 2020 dismissing the appeal. 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 appellant's ability to carry out requirement [ii] of the notice within the required period. 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