



Appeal Decision

by Ken McEntee

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

Decision date: 15 July 2020

Appeal ref: APP/P4605/C/20/3249687

Land at 717 Stratford Road, Sparkhill, Birmingham, B11 4DN

- 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 Mohammed Mahmood against an enforcement notice issued by Birmingham City Council.
- The notice was issued on 25 February 2020.
- The breach of planning control as alleged in the notice is "Without planning permission, the unauthorised use of the single storey rear extension as individual self contained flats in the approximate position marked in green on the attached plan."
- The requirements of the notice are: "i. Permanently cease the use of the single storey rear extension as self contained flats. ii. Return the internal layout of the building so that it strictly accords with approved plan FJS/02A attached to approved planning application reference 2007/1425/PA. iii. Remove all building materials and rubble from the Property arising from compliance with requirement (ii) above".
- The time period for compliance with the notice is "6 months after this enforcement 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 appellant contends there are currently tenants with 6-month tenancy agreements occupying the flats and it would be very difficult for them to find alternative accommodation given the current COVID-19 situation. I fully appreciate the appellant's concerns. However, since the appeal was submitted, the COVID-19 lockdown restrictions have gradually eased, thus giving more scope for the tenants to seek out alternative accommodation. I am also mindful that that some 4 months have 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 tenants, whose tenancy agreements will have expired in the meantime, will have had some 10 months in which to seek out alternative accommodation and the appellant to carry out the necessary works to comply with the requirements of the notice. I consider this period to be both reasonable and proportionate and provides an appropriate balance between the needs of the tenants and the need to bring to an end the stated harm caused by the unauthorised use to the surrounding area.

2. Therefore, on the evidence before me, I do not consider 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, should the current situation with regard to the COVID-19 pandemic change so as to potentially impact on the appellant's ability to comply with the requirements of the notice, it will be 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