
Appeal Decision

by Chris Hoult BA(Hons) BPhil MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 September 2020

Appeal Ref: APP/W5780/X/20/3246287

1 Vernon Road, Seven Kings, Ilford, IG3 8DJ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development ("LDC").
 - The appeal is made by Mr Bashir Ahmed against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 4587/19, dated 27 November 2019, was refused by notice dated 24 January 2020.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended ("the 1990 Act").
 - The use for which a certificate of lawful use or development is sought is described as follows: "The house is to be converted to be used as a small HMO to be rented out."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposed development in the heading, above, is taken from the application form. The Council in its decision notice summarises it as a proposed change of use from a dwelling (C3) to a small HMO for up to 6 people (C4), which would more accurately describe it.
3. In an appeal of this kind the planning merits of the proposed use are not for me to consider. My decision will turn on the legislative provisions, relevant planning case law and the submitted evidence. Given therefore that it was not necessary in order to reach a decision to see the appeal site and its surroundings, a site visit was not carried out. I would add that my powers under s195 of the 1990 Act are in large part limited to a review of the soundness of the Council's decision to refuse a LDC based on the evidence before me. Wider matters, such as the fairness or otherwise of its procedures in validating applications submitted to it, are not for me to determine.

Main Issue

4. In the light of s195 of the 1990 Act, the main issue is whether the Council's decision to refuse to grant a LDC was well-founded.

Reasons

5. The application seeks to ascertain whether a change of use of the appeal property from a family dwelling to a small House in Multiple Occupation (HMO)

would be lawful¹. The application was recorded as received by the Council on 3 December 2019 and validated on 31 December 2019, the reason for the delay in validating it being, according to the Council, that it was insufficiently complete to allow it to be properly assessed. Principally, there was no site plan and the plans showing the proposal were at an insufficiently detailed scale. This was communicated to the appellant by way of a letter of 3 December 2019 and it was not until later that the required information was submitted.

6. On 6 December 2019, the Council issued a Direction under Article 4 of the GPDO² withdrawing permitted development rights for such changes of use. Consequently, when the application became valid, the legislative provisions upon which lawfulness was claimed no longer applied and it was refused.
7. The appellant argues that he submitted the application and paid the relevant fee before 6 December 2019. When asked for the further information, he submitted it within the deadline set by the Council (31 December 2019). He does not contend that the application was complete enough at the time of its submission to allow it to be assessed, and should therefore have been determined before the Direction came into force. The plans accompanying the original application have not been submitted in support of the appeal.
8. The further plans he had drawn up are all dated 14 December 2019, which post-dates the date the coming into force of the Direction. By that time, the provisions on which he would have relied had already been withdrawn. The Council says that it dealt with his application in accordance with its standard procedures which it says are in line with national guidance – I have no evidence to indicate otherwise.
9. Accordingly, I have no reason to conclude that the Council dealt with the initial application any other than correctly and in the same manner as it would have dealt with any other application of this type. It is unfortunate for the appellant that, by the time plans had been drawn up that would enable the application to be validated and properly assessed, the provisions upon which he relied in claiming lawfulness for what was proposed had been withdrawn. He may feel aggrieved that he was put to the trouble of submitting further information without the particular implications of the Article 4 Direction for his application being explained to him. That is for him to pursue with the Council should he wish to take these matters further. None of this, however, renders the Council's decision in refusing the application ill-founded.

Conclusion

10. In consequence, I conclude that the Council's refusal to grant a LDC in respect of the proposed change of use of the property from a dwelling (C3) to a HMO (C4) was well-founded and that the appeal must fail. I will exercise accordingly the powers transferred to me in s195(3) of the 1990 Act.

C M Hoult

INSPECTOR

¹ Use classes C3 and C4 of the Town and Country Planning (Use Classes) Order 1987 as amended refer.

² The Town and Country Planning (General Permitted Development)(England) Order 2015 as amended.