



Appeal Decision

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2020

Appeal Ref: APP/Z5060/C/20/3250226

Land and premises at 8 Rosalind Court, Meadow Road, Barking IG11 9QU

- 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 made by Mr Ricardas Jankevicius against an enforcement notice issued by the Council of the London Borough of Barking and Dagenham.
 - The enforcement notice was issued on 4 March 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised material change of use of the property from a single-family dwelling to self-contained units of accommodation.
 - The requirements of the notice are:
 - Cease the use as separate self-contained units of accommodation.
 - Revert the property to a single-family dwelling.
 - Remove all alterations and fixtures enabling the change of use to separate self-contained units of accommodation.
 - Remove all consequent waste material from the land.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended.
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Formal Decision

1. It is directed that the enforcement notice is varied by the deletion, from section 5 of the notice – what you are required to do, the requirement to *revert the property to a single-family dwelling* and by substituting six (6) months for three (3) months as the period for compliance. Subject to these variations, the enforcement notice is upheld.

Preliminary Matter

2. In reviewing the file, it appeared that the appeal could be determined without a site visit – without causing prejudice to any party given the ground of appeal and points in dispute. Both the appellant and the Council were given an opportunity to comment on this approach and any responses received have been considered.

The Enforcement Notice

3. There is a right under Section 57(2) of the Act to revert to the last lawful use following the issue of an enforcement notice. The positive requirement to revert the property to its lawful use as a single-family dwelling is therefore excessive, and I shall vary the notice by deleting that part of the requirement. I am satisfied that this variation will not cause injustice to the parties.

The appeal on ground (g)

4. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable.
5. The appellant's case is that they would like to extend the compliance period as they are in Lithuania and unable to return to the UK or to find anyone to carry out the works on their behalf because of quarantine restrictions associated with the COVID-19 pandemic. They did not however suggest what they consider a reasonable period would be.
6. There is no appeal on any other ground other than ground (g), and therefore it has been virtually inevitable since the appeal was lodged that the enforcement notice would be upheld. The appellant will know that the notice will come into force in exactly the form it was issued. The only reason for appealing is to gain more time to comply. So, where the only ground is (g), the Inspector can usually take account of the time taken in the appeal process when deciding what would be a reasonable period for complying with the notice.
7. However, shortly after the enforcement notice was issued and at the time the appellant lodged his appeal, the UK was subject to a lockdown in response to the pandemic which will have had some impact on the appellant's ability to take steps towards complying with the notice.
8. It is not clear from the evidence whether the property is occupied and if so, how many occupants there are. Nevertheless, and whilst it is never possible to guarantee that occupiers can find somewhere new to live, I must ensure anyone who will be deprived of their home is given a reasonable period of time to look for other housing.
9. I accept that if the appellant made reasonable and timely efforts to comply with the requirements but was unable to complete them due to circumstances out of their control, then the Council does not have to take further action. However, the time for completing the requirements should be what is reasonably considered necessary to complete them.
10. Consequently, in view of the exceptional circumstances associated with the pandemic and bearing in mind the potential disruption to any occupants, I conclude that it is reasonable and proportionate to extend the period from three to six months. The appeal on ground (g) succeeds to that extent, and so the enforcement notice will be upheld with variations.

Felicity Thompson

INSPECTOR