



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/D5120/C/19/3244383

Land at 27 Holstein Way, Erith, Kent DA18 4DQ

- 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 Julius Olusegun Adenji against an enforcement notice issued by the Council of the London Borough of Bexley.
 - The enforcement notice was issued on 11 November 2019.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use the property to a guest house.
 - The requirements of the notice are to cease the use of the property shown in the approximate location outlined in blue on a plan attached to the notice as a guest house.
 - The period for compliance with the requirements is two 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 corrected by the addition of the word 'of' after 'use' in section 3 of the enforcement notice, the matters which appear to constitute the breach of planning control. Subject to this correction, the appeal is dismissed, and the enforcement notice is upheld.

The Enforcement Notice

2. There is a small error in that the word 'of' is missing from the allegation. I shall therefore correct the enforcement notice and consider there is no prejudice caused to either party by me so doing.

The appeal on ground (g)

3. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant's case is that they would like to extend the compliance period to six months, on the basis that the period does not account for existing bookings made.
 4. The Council first investigated the breach in October 2013, following which a planning application was submitted for the use and subsequently refused in April 2016, reference 13/01838/FUL. The reasons for refusal relate to the impact on the living conditions of neighbouring residents in respect of noise and disturbance, the risk of danger from flooding due to access arrangements associated with the ground floor accommodation and the loss of a dwellinghouse.
 5. The Council confirmed in their officer report that they have not received any noise complaints about the use and the reasons for issuing the notice relate to flood risk and the loss of a dwellinghouse.
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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. The appellant submitted no substantive evidence regarding any existing bookings. However, as the compliance period will begin from the date of this decision and given that the appeal was made in December 2019, the appellant will have had a reasonable amount of time in which to comply with the requirements of the notice.
8. Consequently, on the basis of the above and given that the use has been ongoing for some time, with the retrospective planning application for the development being refused in April 2016 and the need to bring this harmful development to an end, I consider two months to be a reasonable period for compliance. The appeal on ground (g) therefore fails and the notice is upheld with a correction.

Felicity Thompson

INSPECTOR