
Appeal Decisions

by P H Willows BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2021

**Appeal Refs: APP/U2805/C/20/3257427 & APP/U2805/C/20/3257428
Land at 2 The Brontes, Corby, Northamptonshire NN17 2NH**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Leonard Durici (APP/U2805/C/20/3257427) and Mr Shkelzen Lamani (APP/U2805/C/20/3257428) against an enforcement notice issued by Corby Borough Council.
 - The enforcement notice was issued on 8 July 2020.
 - The breach of planning control as alleged in the notice is, without planning permission, the unauthorised change of use from Use Class C3 Dwelling house to a sui generis house in multiple occupation for up to 12 persons.
 - The requirements of the notice are:
 1. Cease the house in multiple occupancy use for up to 12 people in its entirety
 2. Carry out the necessary remedial works so the property complies with the parameters of the C3 Use Class (dwellinghouse).
 - The period for compliance with the requirements is 4 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The enforcement notice is quashed.

Procedural Matter

2. In order to minimise contact during the pandemic, I wrote to the parties asking whether the appeal could be determined without a site visit. Both parties considered that a site visit was necessary. However, in view of the particular concerns which lead me to quash the notice, which I do not consider could have been resolved with a site visit, I have determined the appeal without visiting the site. In the circumstances of this case I am satisfied that this does not cause injustice to either party.

Reasons

3. The enforcement notice specifies two requirements, the second of which is to *Carry out the necessary remedial works so the property complies with the parameters of the C3 Use Class (dwellinghouse)*. There is no further information to indicate what those works might be.
4. I wrote to the Council and the appellant asking whether this requirement was sufficiently precise and clear and, if so, what specific works the Council had in mind. In its response the Council considered that the requirement was

sufficiently precise and clear but did not provide details of the specific works it had in mind.

5. The Courts have established¹ that an enforcement notice must tell the recipient fairly what has been done wrong and what must be done to remedy it. This should be clear from the notice itself. In this instance I do not know what is meant by 'the parameters of the C3 Use Class' in terms of the works to be carried out at the property. Neither party has listed the necessary works.
6. The Council advises that the requirement is intended to reduce the number of residents to no more than 6 and to change the layout accordingly. However, whatever the intention, the notice needed to give a clear indication of the actual works required. I have noted the reference to a Design and Access Statement submitted in support of a planning application, but the requirement does not contain any reference to that document or works contained in it. In my view the scope for disagreement as to what the requirement actually means in practice is very wide indeed. Thus, the requirement is not sufficiently clear and cannot remain as it is.
7. I have the power to correct a notice, but only if there would be no injustice in so doing. Neither party has given me their view as to the specific works that are required, and so it is not possible for me to re-word the requirement to provide the necessary clarity. To attempt to do so could cause injustice to either party.
8. Alternatively, I could delete the requirement, so that the notice would require only the cessation of the use (Requirement 1). However, the Council may consider that the purpose of the notice would not be fully achieved in that instance and injustice would occur as a result. My decision to quash the notice leaves open to the Council the option of issuing a corrected notice.
9. I have noted the references to the dismissal of an appeal relating to the HMO use² and also the Environmental Services comments relating to the licensing of the property. However, these matters do not affect my specific concerns relating to the enforcement notice. I have also noted that Requirement 1 refers to a 'house in multiple occupancy' rather than 'house in multiple occupation'. Had I upheld the notice, this could have been corrected to ensure consistency with the allegation in the notice.
10. For the reasons given above I conclude that the enforcement notice does not specify with sufficient clarity the steps required for compliance. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act as amended since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed. In these circumstances the appeal under grounds (f) and (g) as set out in section 174(2) of the 1990 Act as amended do not fall to be considered.

Peter Willows

INSPECTOR

¹ See *Miller-Mead v MoHLG* [1963] 2 WLR 225

² APP/U2805/W/20/3255611