



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 30 September 2021

Appeal ref: APP/N5090/C/21/3277841

Land at 2 Colindeep Gardens, London, NW4 4RU

- 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 Babloo Anand (5 Rivers Investments Ltd) against an enforcement notice issued by the London Borough of Barnet.
- The notice was issued on 21 May 2021.
- The breach of planning control as alleged in the notice is "Without planning permission, the use of the property as a House in Multiple Occupation (HMO Use Class C4)".
- The requirement of the notice is: "Cease the use of the property as a house in multiple occupation".
- The time period for compliance with the notice is: "6 months after this 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, but with variation.

Reasons for the decision

1. The appellant contends that 6 months is potentially too short to comply with the requirements of the notice due to changes to section 21 of the Housing Act making it more difficult to evict tenants. He therefore requests that the compliance period be extended to 12 months. However, I mindful 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 appellant will effectively have had some 10 months, just 2 months short of that requested, to execute the eviction process. I consider this period to be reasonable and proportionate and provides an appropriate balance between the need for the current tenants to seek out alternative accommodation and the need to bring the stated harm caused by the unauthorised use to an end. Therefore, I am not satisfied there is good reason to justify extending the compliance period further. The ground (g) appeal fails accordingly.
2. However, while I am dismissing the appeal, should the appellant experience any genuine difficulties, 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.
3. I note that the appellant requests the requirement of the notice be amended to stipulate Class C4 rather than a generic HMO use, which includes a Sui Generis HMO. While I note that a Sui Generis use has not been alleged in the notice, I

consider it reasonable that the description of the requirement should match that of the allegation, which includes (HMO Use Class 4), for the avoidance of doubt. I shall therefore amend the notice accordingly.

Formal decision

4. For the reasons given above, the appeal is dismissed and the enforcement notice is upheld, but varied at paragraph 5 "WHAT YOU ARE REQUIRED TO DO", by the addition of the words "(HMO Use Class C4)" after "Cease the use of the property as a house in multiple occupation".

K McEntee