



Appeal Decision

by **L Perkins BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 January 2022

Appeal Ref: APP/U5930/C/20/3247904

Land at 361 Grove Green Road, Leytonstone, London E11 4AQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Mr Akil Ahmed against an enforcement notice issued by the Council of the London Borough of Waltham Forest.
 - The notice, Ref 085898, was issued on 20 January 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the dwellinghouse to use as a House in Multiple Occupation ('HMO') (Use Class C4) ("Unauthorised Development").
 - The requirements of the notice are:
 1. Cease the use of the property as a House in Multiple Occupation (Use Class C4);
 2. Remove all fixtures and fittings associated with the use of the property as a House in Multiple Occupation (Use Class C4), including but not limited to, all signage, door locks and door numbers.
 3. Remove all en-suite bathrooms located on the ground floor of the property.
 4. Remove from the property all associated debris resulting from compliance with the above steps.
 - The period for compliance with the requirements is: Six (6) months.
 - The appeal is proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matter

2. This appeal can be determined without the need for a physical site visit. This is because I have been able to reach a decision based on the information already available. Both the appellant and the Council were given an opportunity to comment on this approach and I have taken any responses into account.

Reasons

3. The change of use of a dwellinghouse to an HMO is a material change of use under section 55 of the 1990 Act.
4. An appeal on ground (c) is that the matters stated in the notice do not constitute a breach of planning control. This may be the case if, for example, planning permission exists for the breach of planning control alleged in the notice.
5. In a ground (c) appeal, the onus is on the appellant to make out their case to the standard of the balance of probabilities.
6. The appellant's case is reflected only by what is written on the appeal form.

7. The appeal form states: "*Initial permission was granted for HMO use on 28 March 2018*". But no copy of any planning permission has been provided to substantiate this claim.
8. The evidence includes a copy of an HMO licence, dated 28 March 2018. This is not a planning permission for the purposes of the Town and Country Planning Act 1990. The granting of an HMO licence does not constitute the granting of planning permission for the use of a property as an HMO.
9. Furthermore, in light of the Article 4 Direction provided, which the evidence indicates came into force prior to the change of use alleged occurring, there is no evidence that the change of use which has occurred is 'permitted development'. This is because the Article 4 Direction makes it clear that planning permission is required to change the use of a property in the borough from a dwellinghouse to an HMO.
10. In light of the above, the appeal on ground (c) fails.

Conclusion

11. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

L Perkins

INSPECTOR