



Appeal Decision

Site visit made on 1 February 2022

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2022

Appeal Ref: APP/Z5060/C/20/3247404

Land and premises at 67 Bell Farm Avenue, Dagenham RM10 7BB

- 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 Robert Bragg against an enforcement notice issued by the Council of the London Borough of Barking & Dagenham.
 - The enforcement notice was issued on 23 January 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised material change of use of a single-family dwelling house to a house of multiple occupation.
 - The requirements of the notice are:
 - Cease the use as a house of multiple occupation;
 - Remove all alterations and fixtures enabling the conversion to a house of multiple occupation;
 - Remove all consequent waste material from the premises.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The enforcement notice is quashed.

Matters concerning the notice

2. I have a duty to try to get the notice in order. The notice alleges the change of use of a single-family dwelling house to a house of multiple occupation (HMO). However, the appellant identifies that the property has been extended at ground floor level to the front, side and rear and that this is occupied as a self-contained one bedroom annex. This is included within the site as identified on the plan attached to the enforcement notice. I saw that the annex is accessed from a small hallway via the same front door as the rest of the building. It is self-contained and provides all the facilities for day to day living, essentially as a self-contained flat, rather than as part of the alleged HMO.
3. It appears to me therefore that the site is in use as an HMO and a self-contained flat. The allegation is therefore incorrect as it does not refer to the use as a self-contained flat. I have wide ranging powers to correct a notice under section 176(1) of the 1990 Act. However, they only apply if I am satisfied that the correction will not cause injustice to the appellant or the Council.

4. In this instance, correction of the notice would affect the deemed application and may affect the way the parties present their case and might give rise to other grounds of appeal. This could cause injustice to the parties. I am therefore left with no option but to quash the enforcement notice on the basis that it is beyond correction.

Conclusion

5. For the reasons given above, I conclude that an essential correction to the enforcement notice cannot be made without causing injustice to the parties. Accordingly, the notice will be quashed.
6. In these circumstances, the appeals on the grounds set out in section 174(2)(a) and (g) of the 1990 Act as amended and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended do not fall to be considered.
7. Should the Council wish to continue to pursue enforcement action, it may consider doing so by means of a replacement notice framed in the proper terms, having regard to the 'second bite' provisions of section 171B(4)(b).

N Thomas

INSPECTOR