



Appeal Decision

Site visit made on 26 July 2022

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 August 2022

Appeal Ref: APP/Z5060/C/22/3290439 24 Thorpe Road, Barking IG11 9XJ

- 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 Darius Ditkevicius against an enforcement notice issued by the Council of the London Borough of Barking & Dagenham.
 - The enforcement notice was issued on 14 December 2021.
 - 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 6 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. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Decision

1. It is directed that the enforcement notice be:
 - varied by deleting the words "6 months" within section 6 (Time for Compliance) and its replacement with "7 months".
2. Subject to this variation, the appeal is dismissed, and the enforcement notice is upheld.

The appeal on Ground (f)

3. The appeal on this ground is "that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters (i.e., the matters alleged in the notice) or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".
4. The enforcement notice requires the use as a house of multiple occupation (HMO) to cease together with the removal of all alterations and fixtures enabling the HMO. As such, the purpose of the notice is to remedy the breach of planning control rather than only remedy any injury to amenity.

5. The appellant states that he was not aware of any breach of planning control at the time the HMO Licence was issued. He also states that a planning application was submitted for this change of use, but he was not able to submit the required information to validate the application due to the Covid-19 pandemic and delays.
6. However, as the fee was not paid for the ground (a) appeal within the prescribed timeframe, this lapsed, and the planning merits arguments put forward in the appellant's case can play no part in my decision.
7. The notice has been issued to remedy the breach of planning control. That would not be achieved by the steps outlined by the appellant, as it would not remedy the breach of planning control and planning permission would still be required. There are no lesser steps drawn to my attention or any obvious alternative that would remedy the breach of planning control which is the purpose of the notice.
8. On this basis, the Ground (f) appeal fails.

The appeal on Ground (g)

9. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant asks that the time for compliance is extended from six to twelve months to re-mortgage the property with a different lender; allow time for existing and new tenants to move out and to allow the works to be carried out to comply with the notice.
10. However, no clear evidence has been submitted to explain why it is necessary to re-mortgage the property. Notwithstanding this, I acknowledge that all occupiers need to vacate the premises in order to carry out the other requirements of the notice. I therefore consider that in the particular circumstances of this case, a seven month compliance period is proportionate and reasonable. I shall therefore vary the period for compliance prior to upholding the notice to seven months.
11. To this extent, the Ground (g) appeal succeeds, and I will vary the notice accordingly.

Conclusion

12. For the reasons given above I consider that the appeal should not succeed. I shall uphold the enforcement notice with a variation.

R Satheesan

INSPECTOR