



Appeal Decision

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

an Inspector appointed by the Secretary of State

Decision date: 15 August 2022

Appeal Ref: APP/U5930/X/20/3261778

33 Fulready Road, Leyton E10 6DT

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mrs Oodaye Soopen against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 202238, dated 25 July 2020, was refused by notice dated 24 September 2020.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is C4 - Shared house occupied by 3-6 unrelated individuals sharing basic amenities.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. It was not necessary to undertake a site visit to determine this appeal.

Main Issue

3. The main issue in the appeal is whether or not the Council's refusal of the LDC application was well-founded.

Reasons

4. Article 3(1) and Schedule 2 Part 3 Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO) provides general planning permission for development consisting of a change of use of a building from a use falling within Class C3 (dwellinghouses) to a use falling within Class C4 (houses in multiple occupation) of the Town and Country Planning (Use Classes) Order 1987 as amended (UCO)¹.
5. However, the Council has introduced a Direction under Article 4 of the GPDO which came into force on 16 September 2014 and which removed the exercise of this Class L permitted development right throughout the Borough.
6. Accordingly, for this appeal to be successful, the appellant must satisfy me with sufficiently precise and unambiguous evidence that on the balance of probabilities the stated change of use under Class L occurred before 16 September 2014 (the relevant date).

¹ Class C4 of the UCO concerns use of a dwellinghouse by no more than 6 residents as a house in multiple occupation (HMO). The standard test for an HMO is, in essence, that it consists of living accommodation which is not self-contained and where separate occupying households share one or more basic amenities such as a toilet, personal washing facilities or cooking facilities.

7. However, the appellant stated on the LDC application form that the change of use took place on 10 April 2018. Further, none of the documents submitted in support of the appeal demonstrate C4 use before the relevant date (all dated documents deal with various matters from 2017 onwards). That includes the Building Regulation Completion Certificate relating to completion of a 'Loft conversion with rear dormer' on 10 April 2018.
8. The appellant says that she was granted a 'landlord's licence' in 2017 and an HMO licence in 2019. However, these dates are of course after the relevant date. Further, the Council says that both its licensing team and its Revenues and Benefits Department have no record of the property being used as an HMO before the relevant date.
9. Accordingly, I am not satisfied on the balance of probabilities that Class L permitted development rights were implemented before the Article 4 Direction was introduced. The C4 use is therefore unlawful.

Conclusion

10. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of C4 use was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Andrew Walker

INSPECTOR