
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: 16 September 2022

Appeal Ref: APP/Z5060/C/21/3286754

116 Upney Lane, Barking IG11 9LR

- 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 Kausar Ramay against an enforcement notice issued by the Council of the London Borough of Barking & Dagenham.
 - The enforcement notice was issued on 12 October 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) (b) 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. The appeal is dismissed, and the enforcement notice is upheld.

The appeal on Ground (b)

2. To succeed on this ground, the onus is upon the appellant to demonstrate on the balance of probabilities that the allegation has not occurred as a matter of fact. The appellant states that the property has not changed to a House in Multiple Occupation (HMO), and therefore the allegation has not occurred. No further evidence has been submitted to support this claim.
3. The Council states that Officers from the Private Rented Property license team carried out a site inspection on 16 July 2020, and the floor plan and photographs¹ taken by the Council illustrate the first and second floors containing four bedrooms, a kitchen and bathroom. I also witnessed a layout similar to this during my site visit, albeit the kitchen had been removed at the time of my site visit in July 2022. The Council also state that an HMO license was applied for, for 9 people from 4 households on the 20 July 2020.

¹ shown in Appendices 1 and 2 of the Council's appeal statement.

4. As such, having carefully considered all of the evidence before me, I conclude, on the balance of probabilities, as a matter of fact and degree, the allegation in the notice had occurred when the notice was issued. There has therefore been a breach of planning control and the very limited evidence put forward in support of the contention that the breach has not occurred falls well short of discharging the burden of proof.
5. Accordingly, the appeal on ground (b) must fail.

Conclusion

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

R Satheesan

INSPECTOR