
Appeal Decision

Site visit made on 7 March 2023

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2023

Appeal Ref: APP/J1535/C/21/3284559

49 Manor Road, Chigwell, IG7 5PL

- 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 Mohammad Chaudhry against an enforcement notice issued by Epping Forest District Council.
 - The enforcement notice was issued on 6 September 2021
 - The breach of planning control as alleged in the notice is without planning permission: The change of use of the land and the pool house from a private residential use to a mixed use of residential and commercial use for parties, events, and video shoots.
 - The requirements of the notice are:
 1. Cease the use of the Land and pool house, shown hatched black on the attached plan, for any commercial event, party, or video shoot.
 - The period for compliance with the requirements is 1 month.
 - 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.

Application for costs

2. An application for costs was made by the Epping Forest District Council against Mr Mohammad Chaudhry. This application is the subject of a separate Decision.

The appeal on Ground (b)

3. 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 refutes the allegation and states that he has a big house, and his household of five people have been using the land for their private use.
4. The Council first received complaints that the Pool House was being used for commercial events in the summer of 2020. They state that during their investigation the appellant was unable to explain the presence of an Instagram page advertising 'Chigwell Pool House' available for private hire for events and video shoots.
5. The Council continued to receive complaints of parties and events at the Pool House from various complainants, including the Police and the Council's

Environmental Health Officers who had visited the site on various weekends in June and July 2020. The Council then served a Temporary Stop Notice on 17 July 2020 requiring the cessation of the commercial events. As a result of this, they state that the events ceased, and the Instagram page advertising was taken down.

6. In January 2021 Council Officers saw a new advertisement for "Chigwell Pool House" and its availability for hire for events on Tik Tok. In May 2021 videos were posted on the "Chigwell Pool House" Instagram account of a party that had taken place over the last weekend in May. Screenshots taken of the social media account in May 2021 have also been submitted. These illustrate that Chigwell Pool House was being advertised for a video shoot location; exclusive private party hire; and overnight accommodation for two. The photographs match the layout of the pool house I observed during my site inspection.
7. In response to this, the appellant states that his son has social media accounts where he posts advertisements and Tik Tok videos to get the customers which he passes on to the other businesses. However, this does not clearly explain why the appellant's pool house is being advertised for private hire and video shoots.
8. The Council also received information from a third party stating that commercial parties were ongoing every weekend. The information supplied to the Council included:
 - Screenshot from the Instagram account showing the Jacuzzi being emptied and advertising "fresh water for every guest;"
 - Picture of people arriving at the Pool House – 19 May 2021;
 - Photograph of the Pool House being cleaned in June 2021;
 - Photograph of 'Chigwell Pool House' Instagram account taken on 14 June 2021;
 - Photographs of balloons arriving at the site and being set up within the pool house on 14 June 2021;
 - Screenshots of 'Chigwell Pool House' and 'Nikka setups' Instagram account advertising the pool house for hire - 14 June 2021;
 - Photograph of a Mobile Bar hire vehicle at the front of 49 Manor Road – 9 June 2021.
9. In addition to the detailed photographic evidence provided by the Council and the third party above, several other neighbouring occupiers have also provided letters of representation detailing that they have witnessed the commercial use of the pool house for private parties and events, and the problems they have encountered regarding this unauthorised use. Furthermore, within the completed Planning Contravention Notice the appellant accepts that his son had carried out two to three video shoots since January 2021 and he also acknowledged the social media accounts were his son's and that he had advised his son not to post anything further.
10. The appellant also states that that they are well within the rights to rent a bedroom for short term let for up to 90 days (under the Deregulation Act 2015). He also states that garages are often used for storage and workshops.

However, these uses are materially different than the alleged matters stated in the notice, and therefore does support this appeal under ground (b).

11. 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.

12. Accordingly, the appeal on ground (b) must fail.

Conclusion

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

R Satheesan

INSPECTOR