



Appeal Decision

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 November 2023

Appeal Ref: APP/W5780/C/22/3299536

Land at 98 Felbrigge Road, Ilford IG3 9XJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Ahmad Zein Elabdein against an enforcement notice issued by London Borough of Redbridge.
 - The notice was issued on 28 April 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of property from dwellinghouse (Use class: C3 to a large house of multiple occupation (Use class: Sui Generis).
 - The requirements of the notice are: (i) cease the use of the dwelling as a large house of multiple occupation; (ii) remove all fixtures and fittings that facilitate the use as a large HMO; and (iii) clear resultant debris from requirements (i) and (ii).
 - The period for compliance with the requirements is: the steps above to be complied with in full no later than 6 months from the date of this notice taking effect.
 - The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice is varied by:
 - the deletion of 'the steps above to be complied with in full no later than 6 months' and the substitution of 'step (i) above to be complied with in full no later than 10 months and steps (ii) and (iii) to be complied with in full no later than 12 months' as the time periods for compliance.
2. Subject to this variation, the appeal is dismissed, and the enforcement notice is upheld.

The appeal on ground (g)

3. An appeal on ground (g) is that the period specified in the notice falls short of what should reasonably be allowed.
4. The appellant considers the six month compliance period to be impractical and unreasonable for three reasons. These are: the period does not allow the appellant to serve notices to existing tenants to vacate the property; the period does not allow sufficient time for the existing tenants to identify and physically relocate to alternative premises; and due to reasons (i) and (ii), the compliance period can result in existing tenants becoming or being declared homeless which, in turn, would place unwarranted and undue stress on housing resources. The appellant says the compliance period should be twelve months.
5. The tenancy agreements provided in response to the Planning Contravention Notice (PCN) issued by the Council show that occupants of the appeal property had an initial term for their occupation, which then moves onto a rolling monthly tenancy. However, these tenancy agreements are from 2019 and 2020, so they are from some time ago. Neither party has explained whether those individuals are still living at the appeal property or whether there are newer occupants.

6. If there have been or are newer occupants, given the similarity of the tenancy agreements before me, they are likely to have an initial term of three or six months. However, neither party has confirmed whether this is the case or when any initial terms may end.
7. The tenancy agreements before me indicate that either the landlord or the tenant can end their agreement, whether that be in the initial term or the subsequent contractual periodic tenancy, by giving notice at least one month's notice in writing. The notice period would suggest that a six month compliance period is ample time for the appellant to serve notices so that existing tenants can vacate the property.
8. However, it is unclear, if there are any existing tenants, when their agreements commenced, and what if any notice they need to be given to say with certainty that six months is a reasonable compliance period.
9. But, even if it was enough time to allow notices to be served on occupants so that they vacate the property, and that notice period was a month as stipulated in the submitted tenancy agreements, any existing tenant would be left with around four months at best to find alternative accommodation and move. Setting aside the physical upheaval of doing so, the need to find new accommodation through no fault of their own would be unsettling and stressful for the tenants. Finding an alternative home and for that home to be available may take time and, given that enforcement action is intended to be remedial rather than punitive, rendering the occupants potentially homeless without being afforded a sufficient period of time to secure an alternative home, is not reasonable. Hence, for the reasons set out, I consider a longer compliance period justified in this case to cease the use.
10. I consider 10 months a proportionate and reasonable time period to cease the use. This would apply to requirement (i) of the notice. I then consider it reasonable to allow two months thereafter for requirements (ii) and (iii) to be carried out, given that those requirements can only be met when all the rooms are vacant.
11. The appellant has known of the notice and of its requirements for some time, but they have exercised their right of appeal and while there are no grounds to alter the compliance period in respect of their circumstances, I must consider the notice's implications on the occupants of the appeal property regardless of their lifestyle choices. I note the points made by a neighbouring occupier, but if there are concerns about noise, parking, and anti-social behaviour then these are matters to be raised with the appropriate organisations. They are matters which lie outside of the scope of this appeal, and I cannot consider the planning merits of the use as there is no appeal under ground (a) in this case.
12. Therefore, for the reasons set out, the appeal on ground (g) succeeds.

Conclusion

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

Andrew McGlone

INSPECTOR