



Appeal Decision

Site visit made on 13 August 2024

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 16 August 2024

Appeal Ref: APP/D1780/C/23/3314612

18 Sirdar Road, Southampton, SO17 3SJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Denzil Properties (M) Ltd against an enforcement notice issued by Southampton City Council.
 - The notice was issued on 24 November 2022.
 - The breach of planning control as alleged in the notice is material change of use to 2 self contained flats.
 - The requirements of the notice are: (i) cease the use of the land as self-contained flats; (ii) remove all fixtures and fittings that solely facilitate the use of the land as self-contained flats; and (iii) remove all resulting materials from the land.
 - The period for compliance with the requirements is: 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f), (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is allowed and the enforcement notice is quashed.

Applications for costs

2. Both parties have made claims for a partial award of costs and I have dealt with these in a separate letter.

The Appeal on Ground (d)

3. This ground is that the matters alleged occurred more than 4 years ago and so are immune from enforcement action.
4. It seems the property was purchased in 2004 and from 2007 was used as an HMO for 6 persons. There is little evidence for this except in 2014 an HMO licence was issued for the property which expired in 2018. From late summer 2018 the appellant states the property was used as 2 flats. The appellants provided detailed evidence of tenancy agreements for Flat A from 15 September 2018 and Flat B from 1 August 2018. The 4 year period begins on 24 November 2018 so it would seem the use as 2 flats began before that period.
5. There are gaps in the tenancies but the appellant explains they were Assured Shorthold Tenancy agreements which simply roll on once signed until the flat is vacated and another tenant comes in. There are also signed statements from the appellant himself, a Miss Apertrei who works for the letting company that handled all the lettings of the flats, a Mr Singh who is the works manager for the letting company and a Mr Hannan who works as a boiler fitter and was

employed by the letting company to install and then maintain the boilers in the 2 flats. All these statements corroborate the fact the 2 flats were occupied permanently from late summer 2018.

6. The Council have not provided any counter evidence and they have specifically refused to comment on the ground (d) appeal at all. They seem to be under the mistaken apprehension that it is in some way unacceptable to argue ground (d) matters without first applying for an LDC. Whatever the reason, I have nothing to gainsay the cogent and convincing evidence from the appellant and shall allow the appeal on ground (d).

Conclusion

7. I shall allow the appeal and quash the notice. The other grounds do not need to be considered.

Simon Hand

INSPECTOR