



Appeal Decision

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 17 January 2025

Appeal Ref: APP/U5930/C/23/3330984

43 Hale End Road, Walthamstow, London E17 4BG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Siddiq Azam against an Enforcement Notice (EN) issued by Waltham Forest London Borough Council.
 - The notice was issued on 8 September 2023.
 - The breach of planning control as alleged in the notice is: The material change of use from a dwelling-house (Use Class C3) to use as a House in Multiple Occupation (HMO) (Use Class C4).
 - The requirements of the notice are: 1. Cease the use of the property as a House in Multiple Occupation ('HMO') (C4 Use Class) and revert the property back to its previous authorised C3 Dwellinghouse use. 2. Remove two kitchens from the property that facilitate the unauthorised use so that only one remains at the property. 3. Remove all fixtures and fittings associated with the unauthorised use of the property as a House in Multiple Occupation ('HMO') (C4 Use Class) including but not limited to, all signage, door locks and door numbers. 4. Remove from the property all associated debris resulting from compliance with the above steps.
 - The period for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (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 deleting the words in Requirement 1 "and revert the property back to its previous authorised C3 Dwellinghouse use". Subject to this variation, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. There are no matters of planning merit to consider that would require a visual inspection of the site and the surrounding area. The grounds of appeal require consideration of the written evidence in the context of the parameters set by s174(2) of the 1990 Act. Moreover, I have a description of the layout of the property and both sides have given their views on how they consider the appeal should be decided. Against this background, I could determine the appeal without visiting the property. Neither party has been prejudiced by this course of action.
3. I consider the main body of the ground (f) appeal below. However, to address a minor matter now, it is sufficient in material change of use cases that the EN requires the unauthorised use to cease. There is no scope to require reversion to the lawful use. Therefore, the part of requirement 1 that requires the property to be reverted to a C3 use is excessive. I shall vary that requirement accordingly.

Ground (f)

4. The EN alleges the unauthorised change of use of the property from a dwellinghouse to a HMO. The property is configured with a kitchen, a bathroom, a living room, and a bedroom on the ground floor. The first floor has a kitchen, 2

bedrooms and a bathroom. The second floor (converted loft) has a kitchenette area, bathroom and bed all located within the room. The EN requires the unauthorised HMO use to cease, for two kitchens that facilitate the unauthorised use to be removed so that there is only one kitchen at the property, for all fixtures and fittings associated with the HMO use to be removed, and for all resulting debris arising from those removals to be taken away from the property.

5. Given that the EN requires all works that facilitate the HMO use to be removed, the purpose of the EN comes under s173(4)(a) of the 1990 Act which is to remedy the breach by restoring the land back to the condition it was before the breach of planning control took place. It does not matter that some of the works carried out may not in themselves be development requiring planning permission, such as the installation of door locks and installing items such as washing machines and fridges. The test is whether those works and fixtures and fittings were carried out and installed as part of turning the property from a C3 use to a C4 use. The appellant is best placed to know what those works and items were, and it is reasonable for them to apply that knowledge when complying with the requirements of the notice. That would include knowing what works were done on the second floor to create the kitchenette, even though in the appellant's view that does not comprise a kitchen.
6. The licensing of the property for HMO purposes or any other licence that may be required to have lodgers are separate matters that have no crossover with the ground (f) appeal. If, after complying with the EN, the appellant seeks to use the property in a different way and planning and/or licensing regulations then require signs or locks to be installed, the EN would not prevent these.
7. In the above context, subject to the point I have addressed in the Preliminary Matters section, the requirements do no more and no less than seek to remedy the breach of planning control. Thus, the ground (f) appeal fails.

Ground (g)

8. I am satisfied that carrying out the physical works of removing kitchen fixtures and fittings could be done in the 6 months specified. It may be the case that there are persons living at the property that would require adequate notice to leave. However, there is nothing about who these tenants are or their circumstances or whether they are already aware of the potential need to move. Furthermore, whilst the occupiers of the property carry on living there, the identified planning harms resulting from the unauthorised use would continue. These include overcrowded and cramped living conditions for the occupiers and limited external amenity space available. With these factors in mind, 6 months does not fall short of what should be reasonably allowed, even if a paid licence to have tenants covers 12 months.
9. If there are difficulties in the future in this respect, the Council has the power under s173A of the 1990 Act to waive or relax any requirement of an EN which may allow any extenuating circumstances to be considered then. However, that would be a matter for the Council to decide upon. That power does not change my view now that six months is a reasonable compliance period.

Conclusion

10. The appeal should not succeed. I shall uphold the EN with a variation as outlined.

Gareth Symons

INSPECTOR