



Appeal Decision

Site visit made on 18 March 2025

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date:

Appeal Ref: APP/B5480/C/23/3314832

32 Victory Way, Romford RM7 8PB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Ms Milda Tarvydiene against an enforcement notice issued by the Council of the London Borough of Havering.
 - The notice was issued on 14 December 2022.
 - The breach of planning control as alleged in the notice is, without planning permission, the material change of use of a dwelling into two self-contained dwellings (flats).
 - The requirements of the notice are to:
 1. Cease the use of the property as two separate self-contained residential units; and
 2. Alter the internal layout in accordance with the approved plans of permission P1802.19 and remove all cooking and kitchen facilities and equipment from the new dwelling; and
 3. Remove all electricity and gas meters/fuse boxes from the premises except for one which serves the whole premises; and
 4. Remove all rubble and debris accumulated when taking steps (1), (2) and (3) above.
 - The period for compliance with the requirements is: Three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (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 enforcement notice is quashed.

The Notice - the allegation

2. The allegation as set out in the enforcement notice relates solely to the use of the building as two self-contained dwellings, and thus is concerned only with a change of use, not operational development.
3. The building has previously been extended and was the subject of a planning permission for this extension. The notice does not attack the building operations that have taken place. However, the appellant sets out in their statement of case that the extension that was actually constructed is wider than that which was approved by the planning permission, due to underground constraints.
4. The Council acknowledge this matter within its statement of case and states that it will need to “consider further options to take further enforcement action” as the appeal currently being considered is for a material change of use only. However, I have before me as part of this appeal an appeal under ground (a), i.e., that planning permission should be granted for the change of use of the building. If I were to consider the change of use was acceptable and grant planning permission, I would be granting permission for the use of a building that is, as far as I am aware, currently unauthorised. This could fetter the Council in its

consideration of any further enforcement action it may wish to take in respect of the unauthorised building works.

5. In such circumstances, the alleged breach of planning control should refer to the entirety of the development that the Council wishes to address. The Council has not stated that it is under-enforcing, in not addressing all unauthorised development, and has specifically stated that it will need to consider whether it wishes to take action against the building operation, in addition to the material change of use.
6. Under Section 176(1) of the Act, I have the power to correct the notice to include reference to the building works that have taken place not in accordance with the planning permission. However, in this case the appellant has not had the opportunity to address the merits of the building operation. Furthermore, nor has the Council; neither has it had the opportunity to consider whether it would be expedient in any event to take action against the building itself. As such, I am unable to correct the notice without causing injustice to both the appellant and the Council.
7. I am unable to consider the deemed planning application for the change of use of the building as currently that building is unauthorised. Moreover, I am unable to correct the alleged breach of planning control to include the building works without causing injustice to the parties. Therefore, the notice is invalid and should be quashed due to ambiguity as contained within the allegation.

Conclusion

8. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act as amended, since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed.
9. In these circumstances, the appeals on the grounds set out in section 174(2) (a), (f) and (g) of the 1990 Act as amended and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended do not fall to be considered.

Martin Allen

INSPECTOR