



Appeal Decision

Site visit made on 10 April 2025

by **David Jones BSc (Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 June 2024

Appeal Ref: APP/J0350/C/23/3329404

58 Langley Road, Slough SL3 7AD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Gian Singh Hothi against an enforcement notice issued by Slough Borough Council.
 - The notice was issued on 9 August 2023.
 - The breach of planning control as alleged in the notice is the material change of use of the dwelling house to a large house in multiple occupation ("the HMO") by more than 6 persons (Sui Generis Use).
 - The requirements of the notice are: Cease the use of the dwelling house as a large HMO by more than 6 persons (Sui Generis Use).
 - The period[s] for compliance with the requirements is: Six 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. The appeal is dismissed and the enforcement notice is upheld

Ground (f)

2. The basis for an appeal on ground (f) is that the steps required by the notice to be taken exceed what is necessary to remedy any breach. When an appeal is made on ground (f), it is essential to understand the purpose of the notice. S173(4) of the Act provides that the purpose shall be either to remedy the breach of planning control or to remedy any injury to amenity. In this case, its primary purpose is to remedy the breach by discontinuing the use of the land. For the appeal on ground (f) to succeed, the appellant must propose alternative lesser steps which would remedy the breach.
3. Class C4 of the Town and Country Planning (Use Classes) Order 1987 (as amended) provides for the use of a dwellinghouse as a "house in multiple occupation" (HMO) by not more than six residents, that is up to six unrelated individuals who share basic amenities such as a bathroom and kitchen (a small HMO). The use of a dwellinghouse by more than six residents not living together as a household is "sui generis" or in a use of its own (a large HMO). There is no dispute that at the date the notice was issued the property was in a sui generis use as a large HMO which constituted a breach of planning control.
4. The appellant considers that the requirement to cease the use of the property as a large HMO, and thus limiting the number of residents to six, is excessive. Instead, the appellant suggests that the number of residents could be restricted to nine which would, in his view, still achieve the objective of the enforcement notice. The appellant sets out that this could be achieved by having one person per room on

the ground and first floors, and by evicting the tenants on the second floor. An additional person could possibly be accommodated if modifications to the loft space were also carried out to create one large bedroom.

5. However, the use of the property by nine or ten unrelated individuals who share basic amenities would still constitute a large HMO and a “sui generis” use. Since there is no planning permission to use the property for that use, the appellant’s suggested lesser steps would not remedy the breach of planning control.
6. Furthermore, in the absence of an appeal on ground (a), as set out in section 174(2) of the 1990 Act, and a deemed planning application, the power available to me under section 176(1) only relates to whether the requirements exceed what is necessary to remedy the breach and not the substance of the notice. If an appeal is not brought on ground (a), it is not appropriate for arguments to be introduced on the planning merits in the context of an appeal on ground (f). Accordingly, the appeal on ground (f) fails.

Ground (g)

7. An appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant seeks a period of compliance of nine months on the basis that the tenants will need to find alternative accommodation to meet with their individual needs, the potential difficulty in evicting tenants, and concerns regarding the human rights of tenants.
8. I have nothing before me to indicate that six months would not be sufficient time to notify any existing tenants and for them to find alternative accommodation. Similarly, I have no evidence before me to indicate that tenants would not leave voluntarily. Moreover, should eviction proceedings become necessary, a landowner would be able to rely on the provisions of section 179(3) of the 1990 Act which provides a statutory defence against prosecution where the owner has done everything they could be expected to do to secure compliance with the notice.
9. I recognise that in upholding the notice, it would mean that the occupiers of the property would lose a home. In this regard, I have taken into account rights under Article 8 of the Human Rights Act 1998, which states that everyone has a right to respect for private and family life, their home and correspondence. In this case, there is no evidence to suggest that an extended compliance period would be reasonably needed in order for tenants to find alternative accommodation. Furthermore, upholding the enforcement notice is a legitimate and proportionate response to addressing the breach of planning control in the public interest. This outweighs the loss of a home for each of the tenants.
10. In my assessment, the six-month period of compliance is reasonable given the nature of the steps required by the notice. Accordingly, the appeal on ground (g) fails.

Conclusion

11. For the reasons given above I conclude that the appeal fails. I have therefore upheld the enforcement notice.

David Jones

INSPECTOR