



The Planning Inspectorate

EN.96.0050

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Mr C J Weeden
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Your Reference:

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Council Reference:

KE/96/0702

Our Reference:

T/APP/C/97/L2820/647689

T/APP/L2820/A/97/283342

Date: 19 JUN 1998

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
LAND AND BUILDINGS AT 61 CARLTON STREET KETTERING

1. I have been appointed by the Secretary of State for the Environment Transport and the Regions to determine your appeals against a refusal of planning permission and an enforcement notice, both issued by Kettering Borough Council and both concerning the above mentioned land and buildings. I held a hearing into these appeals on 9th June 1998.

The Notice, the Grounds of Appeal and the Appeal under Section 78

2. (1) The notice was issued on the 30th May 1997.
 - (2) The breach of planning control as alleged in the notice is the unauthorised change of use of the premises from a dwellinghouse to a house in multiple occupation.
 - (3) The requirements of the notice are :
 - i) To cease the use of the property as a house in multiple occupation.
 - ii) To cease the use of the ground floor flat as self contained residential accommodation.
 - (4) The period for compliance with these requirements is 3 months.
3. The appeal is proceeding on the grounds (c), (f) and (g) set out in section 174(2) of the 1990 Act as amended by the Planning and Compensation Act 1991. As the prescribed fees under the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989-93 have not been paid to the Secretary of State and the Local Planning Authority within the period specified, the deemed application for planning permission under section 177(5) does not fall to be considered. However, the development for which the

Council has refused planning permission is the change of use of the premises to a dwelling in multiple occupation. This is essentially the same as the development which the enforcement notice seeks to remove.

Correction to the Enforcement Notice

4. Whilst the enforcement notice alleges a change only to use as a house in multiple occupation, the requirements refer to use of part of the property as a self contained flat. At the hearing it was agreed that at the time the notice was served one of the rooms in the house was used as a flat. Although that is no longer the case now, it seems to me that the notice should reflect the situation prevailing at that time. I shall therefore correct the notice accordingly. Both parties at the hearing confirmed that they would have no objection to this course of action.

The Appeal against the Enforcement Notice on Ground (c)

5. Class C3 of the T&CP Use Classes Order 1987 (UCO) covers use as a dwellinghouse by a family or by not more than 6 residents living together as a single household. Your appeal against the enforcement notice on Ground (c) is based upon the view that the circumstances prevailing at the appeal premises fall within the second of the possibilities referred to in the UCO. Leaving aside the flat, four of the rooms of the property are used as bed/sitting rooms by four individual tenants, each door being equipped with a lock. They share bathroom/toilet facilities and a kitchen, but the latter has no table for eating at and there are no other communal rooms except for one used for storage purposes. Each tenant's rent is paid directly to you on a fortnightly basis. There is no formal rent book, and none of the residents are principal tenants.

6. You state that the tenants are generally on good terms, visit each other's rooms socially, and frequently share cooking. Moreover although not all of them are students, they number less than 6 and you suggest that their manner of living in the house is very much akin to students sharing a property and living as a household. I do not agree. It seems to me that the locks on the doors, the lack of any room for communal leisure use, the lack of a room or even a table for communal eating, and the fact that tenants join and leave the premises as individuals at different times, not as a group, are all strong indications that these premises are not occupied as a single household. I conclude, on the balance of probability, that when the notice was served there had been a change of use from use as a single dwelling to use partly as a flat and partly as a house in multiple occupation. This is generally accepted as a material change of use and I am satisfied that this is so in this instance. You have failed to demonstrate that there has not been a breach of planning control and the appeal on ground (c) therefore fails.

The Appeal Against Refusal of Planning Permission

7. Section 54A of the Act provides that planning applications shall be determined in accordance with the local development plan unless material considerations indicate otherwise. In Kettering the local development plan comprises the Northamptonshire Structure Plan (1992) and the Kettering Local Plan (1995). Both contain general policies requiring that new development and changes of use should be in keeping with their surroundings, should not

adversely affect amenity, and should not have unacceptable consequences in terms of traffic and parking. Local Plan Policy 44 deals specifically with conversions from houses to premises in multiple occupation. It states that permission for such will normally be granted subject to 7 criteria. The two which the Council are concerned about in this case are the first, which requires the property to be suitable in terms of size, layout, private space and amenities, and the fifth, which requires the provision of adequate on-site parking and manoeuvring space.

8. From what I have seen, heard and read I consider that there are two main issues in determining this appeal. The first is whether the house is suitable for multiple occupation in terms of size, layout, private space and amenities. The second is whether the proposal would unacceptably increase problems of street parking in the area.

9. This property has a conventional layout with a front door leading to a corridor serving downstairs rooms and a stairway up from the hall. Other than bathroom/toilet facilities the house has seven rooms and the proposals which gave rise to this appeal envisaged the use of six of them as bedrooms. At the hearing it was confirmed that this has been reduced to five, and the Council agreed to this change. The only communal rooms are a small kitchen, with no seating or dining facilities, and a small room at the rear of the first floor. This is used as a store room and would not be large enough, or very conveniently located, for a lounge or dining room. The house has a rear garden of adequate size, and the premises have most of the normal household facilities such as a cooker, washing machine, clothes line etc. There is one bathroom and two small cubicles containing a toilet and a shower.

10. I have received no letters objecting to these proposals and the Council have not claimed that they would affect the amenity of neighbouring properties by excessive noise or comings and goings. Nor has it sought to suggest that there would be a local concentration of such properties adverse to the character of the area. I see no reason to take a different view on either point. However, I consider that the proposals use too much of the property as bedrooms and leave hardly any useable communal areas for the occupants. I believe that this deficiency would seriously affect living conditions in the property and, with this level of occupation, could not be effectively remedied. I conclude that whilst the proposals are adequate in terms of garden space and layout, the property is too small for the development proposed, and is contrary to the terms of Local Plan Policy 44.

11. Turning to the question of parking provision, it is not in dispute that the property neither has nor is capable of providing, any off-street car parking. For a new house of this size, used by a single household, the normal Council standards would be for 2 parking spaces. For the same house in multiple occupation to the level proposed in your application, the normal standards would be for 3 spaces. Accordingly, the Council suggest that the proposals would generate, on average, the need for one additional car to be parked on the highway on a regular basis. At the hearing it was not suggested that these figures were unreasonable or did not reasonably reflect the existing situation at this property. I consider that I should assess the parking implications on the basis of these figures.

12. Carlton St is within an area of mainly terraced houses, most of which lack off-street parking provision. It is served by a grid of streets measuring between about 6m and 7.5m in width, and there are virtually no parking controls. I was able to visit the area twice, once

during the day and once during the early evening. At the former time the parking level was between 40% and 50% but during the latter visit I estimated that it was well over 90%, and parking spaces were few and hard to find. Moreover many stretches of road, including the part of Carlton St outside the appeal premises, had continuous parking on both sides. In such areas there was insufficient space remaining for vehicles travelling in opposite directions to pass each other. My personal observations accord with the view expressed by the Council that the area suffers from considerable parking problems, particularly outside normal working hours when most people have returned to their homes.

13. In such circumstance the need for even one additional parking space would add, albeit to a small extent, to those problems. Moreover, your property is similar to many others in the area and permission in this case would make it very difficult for the Council, in fairness, to resist further applications for similar development. The cumulative effect of such development would seriously increase the area's existing parking difficulties. I conclude that the proposed development would unacceptably add to parking problems in the area, and exacerbate traffic difficulties stemming from such problems. As such it would be contrary to policies of the local development plan concerning with parking and traffic control.

14. I am satisfied that the problems I have identified are of sufficient importance to merit refusal of permission but I have considered whether there are any other material considerations which indicate a different decision. I accept that the proposals would meet an identified need for this type of accommodation, and I recognise that they comply with standards in other legislative areas such as environmental health. Nonetheless, there must be many other properties in Kettering capable of meeting these requirements without giving rise to the planning problems I have identified. I do not consider that these, or any other matters drawn to my attention are sufficient to outweigh the planning objections to this proposal, and I do not consider that any conditions I might reasonably impose would resolve those objections. Accordingly this appeal will be dismissed.

The Appeal Against the Enforcement Notice on Grounds (f) and (g)

15. Although you appealed against the notice on ground (f), you did not explain how the requirements are excessive or suggest any alternative requirements. I do not consider the requirements excessive or inappropriate and the appeal on ground (f) therefore fails. In respect of ground (g) you suggest that three months is too short a period to allow the occupants of the property to seek alternative accommodation, and I have considerable sympathy with that view. Bearing in mind that this is probably the main residence for most of them I consider that they should be given ample time to look for an alternative home. I shall therefore increase the time for compliance with this notice to the period you suggested, namely six months. To that extent the appeal on ground (g) succeeds.

Other Matters

16. I have taken into account, as well as those I have specifically referred to, all of the other matters raised. I am aware of nothing sufficient to outweigh those factors which led to my decisions.

Formal Decisions

17. For the above reasons, and in exercise of the powers transferred to me, I determine these appeals as follows:

The Section 174 Appeal Ref No : T/APP/C/97/L2820/647689

- a) I direct that the enforcement notice be corrected by the deletion in its entirety of Section 3 and the substitution therefor of the following :

" 3. THE BREACH OF PLANNING CONTROL ALLEGED

Without the benefit of planning permission, the change of use from a dwellinghouse to a mixed use, partly as a flat and partly as a house in multiple occupation. "

- b) I direct that the enforcement notice be varied by the increase of the time for compliance with each requirement from 3 months to 6 months.
- c) Subject thereto I dismiss this appeal and uphold the notice as corrected and varied.

The Section 78 Appeal : T/APP/L2820/A/97/283342

I dismiss this appeal

Rights of Appeal against Decisions

18. This letter is issued as the determination of the appeals before me. Particulars of the rights of appeal against my decisions to the High Court are enclosed for those concerned.

Yours faithfully



B C WILKINSON BEng DipTP MRTPI
Inspector

ENF

APPEARANCES

FOR THE APPELLANT

Mrs M Weeden - 8 Chase Hill, Geddington

FOR THE LOCAL PLANNING AUTHORITY

Mr D Hallam DipTP - Planning Officer
Kettering Borough Council

DOCUMENTS

- Document 1 - List of persons present at the Hearing.
- Document 2 - Letter of Notification and List of Those Notified.
- Document 3 - Copy of Enforcement Notice.
- Document 4 - Documents Relating to the Planning Application.
- Document 5 - Correspondence between the Council and the Appellant.
- Document 6 - Copy of Appeal Decision Notice Dated 7th December 1993.