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# Appeal Decision

**by Ken McEntee**

**a person appointed by the Secretary of State for Communities and Local Government**

**Decision date: 25 August 2016**

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**Appeal ref: APP/A5270/C/16/3148841 & APP/A5270/C/16/3148842**  
**Land at 145 Brunswick Road, London, W5 1AH**

- The appeals are made under section 174 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991.
- The appeals are brought by Mr Dilawar Abbas and Mr Amjad Tajik against an enforcement notice issued by the London Borough of Ealing.
- The notice was issued on 20 April 2016.
- The breach of planning control as alleged in the notice is "Without planning permission, the material change of use of the outbuilding to the rear of the premises (in the position marked 'X' on the attached plan) to use as two self-contained residential dwellings ("Unauthorised Development").
- The requirements of the notice are as described in the annex to this decision.
- The period for compliance with the requirements of the notice is "3 months after the date this notice takes effect".
- The appeals are proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

**Summary of decision: The appeal is dismissed and the enforcement notice is upheld but with correction.**

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## Reasons for the decision

1. Most of the arguments put forward by the appellants concern the planning merits of the case. However, as ground (a) was not appealed or the relevant fee paid, this is not something before me to consider. I can only consider the appeal on ground (g) which is whether or not the time given to comply with the requirements of the notice is too short. With that in mind, the appellants contend that they need more time to comply with the notice as there are a lot of alterations, they have to give the tenants notice and there may be hiccups through tenants refusing to leave. The appellants do not suggest an alternative time period to allow for such eventualities.
2. While I note the points made by the appellants, they have to be weighed against the stated harm caused by the unauthorised development to the conservation area, which has persisted since at least February of this year. I am also mindful that some 4 months have elapsed since the appeal was submitted with enforcement action effectively suspended. I note that the appellants stated to the Council on 26 April 2016 that notice had already been given to the tenants to leave. Therefore, the tenants have already had almost 4 months in which to seek

out alternative accommodation, and as the 3 month compliance period will begin again from the date of this decision, they will have had some 7 months in total. I consider this period to be both proportionate and reasonable and achieves an appropriate balance between the need to bring the harm caused by the unauthorised use to an end and the need of the tenants to look for alternative accommodation.

3. The possible problems the appellants suggest they may have in evicting the current tenants are solely hypothetical and can only be considered as a matter of speculation at this stage. When deciding on what is a reasonable compliance period, it is reasonable to work on the assumption that tenants will comply with the eviction notice, rather than the assumption they will refuse to leave. Nevertheless, should the appellants experience any genuine problems in this regard, the Council have the power, under section 173A (1) (b) of the amended 1990 Act, to extend the compliance period themselves, if they see fit. Whilst this is entirely a matter for the Council's discretion, it would be open to the appellants to ask for a further short extension of time, should that prove necessary.
4. It is also reasonable to assume that since the appeal was submitted and the termination notices given to the tenants, the appellants will have been taking steps to carry out the necessary works. Therefore, in the circumstances, I am not satisfied there is good reason to extend the compliance period further and consider the 3 months given is sufficient to meet the requirements of the notice. The ground (g) appeal fails accordingly.

### **Formal decision**

5. For the reasons given above, the appeals are dismissed and the enforcement notice is upheld.

*K McEntee*

### **Annex to decision**

### **WHAT YOU ARE REQUIRED TO DO**

- a. Cease the use of the outbuilding as two self-contained residential dwellings;
- b. Do not use the outbuilding for any purposes other than a use incidental to the main dwelling;
- c. Remove the kitchen and drainage connections which facilitate the use of the outbuilding as two self-contained residential dwellings;
- d. Remove the bathroom and drainage connections which facilitate the use of the outbuilding as two self-contained residential dwellings; and
- e. Remove all resultant debris.