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# Appeal Decisions

Site visit made on 4 April 2018

**by Debbie Moore BSc (HONS) MCD MRTPI PGDip**

**an Inspector appointed by the Secretary of State**

**Decision date: 14 May 2018**

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## **Appeal A: APP/F5540/W/17/3176403 15-19 Kingsley Road, Hounslow, TW3 1PA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the 1990 Act) against a refusal to grant planning permission.
- The appeal is made by Mr Amar Sattar of Haris Ali Solicitors against the decision of the Council of the London Borough of Hounslow.
- The application Ref 00667/15-19/P1, dated 19 December 2016, was refused by notice dated 20 February 2017.
- The description of development provided in the application form is "Change of use of 2 x dwelling-houses (Use Class C3) and a HMO (Use Class C4) to a solicitor's office (B1 Offices) [No 19] and use of outbuilding to rear of No 17 & No 19 for ancillary storage. 2 x studio apartments (Use Class C3) and a dwelling-house (Use Class C3) with a rear/side infill extension between No 15 and No 17 to provide a shower room for the ground floor studio at No 17 and external alterations to No 15".

**Summary of Decision: The appeal is allowed and planning permission granted.**

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## **Appeal B: APP/F5540/C/17/3179147 19 Kingsley Road, Hounslow, TW3 1PA**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Amar Sattar against an enforcement notice issued by the Council of the London Borough of Hounslow.
- The enforcement notice was issued on 9 June 2017.
- The breach of planning control as alleged in the notice is: without planning permission, the conversion of the property from residential (C3) to a solicitors [sic] office (A2).
- The requirements of the notice are:
  - (i) cease the use of the property as A2 and restore the property to a condition that would enable it's [sic] use as a single dwelling;
  - (ii) remove all resultant debris from the Land.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(g) of the 1990 Act, as amended.

**Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections as set out in the Formal Decision below.**

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## **Appeal A**

### *Procedural Matters*

1. The appellant has accepted that the solicitor's office, which is operating from No 19 Kingsley Road, falls within Use Class A2<sup>1</sup>. The application was made on the basis that No 19 was in use as a solicitor's office and sought to regularise

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<sup>1</sup> The Town and Country Planning (Use Classes) Order 1987.

the unauthorised development. That being so, the appellant's description of development needs to be changed to delete reference to Class B1. This does not substantially change the nature or scale of the original development and I am satisfied that the Council would not be prejudiced by this amendment.

### *Main Issues*

2. The proposed development includes the retention of No 15 Kingsley Road as a dwelling house and a single storey rear extension to create a shower room for the adjoining studio flat (No 17). The Council has confirmed that it considers the retention of No 15 as a dwelling house, and the extension, would be acceptable. Also, there are no concerns raised about the use of the outbuilding for storage. I have, therefore, confined my consideration to the matters in dispute, which are set out below.
3. The main issues are:
  - (i) the effect of the development on local housing need; in particular, whether the property (No 17) would be suitable for conversion;
  - (ii) whether a solicitor's office (No 19) would be an appropriate form of development in this location, having regard to the character and appearance of the site and surrounding area, and;
  - (iii) the effect of the solicitor's office (No 19) on the living conditions of neighbouring occupiers, with regard to noise and disturbance.

### *Reasons: - Local Housing Need*

4. The proposal seeks to create two studio apartments; one would be located on the ground floor of No 17, as extended by the addition of the shower room, and the other would be located on the first floor of Nos 17 and 19.
5. The development as a whole would lead to the loss of two small family houses. The Council advises that there is a need for this type of accommodation in the Borough, but there is very limited information to support this. Whilst, I do not doubt the local need for housing there is no evidence to demonstrate that single family houses are more in demand than the studio flats which would be provided in their place.
6. The Council states that the internal floor area of No 17 is 58 square metres (sqm) and, as such, it is considered unsuitable for subdivision. Although No 17 falls below the size requirements of Policy SC6 of the Local Plan<sup>2</sup>, the explanatory text to the policy states that the requirement of 130sqm is to reflect minimum standards of internal space. Due to the additional floorspace that would be provided on the first floor of No 19, the minimum gross internal floor areas of both apartments would meet the relevant requirements of the Nationally Described Space Standards, as reflected in Policy SC5 of the Local Plan. Also, the Council accepts that adequate outdoor amenity space would be provided.
7. Given that the development would create two small residential units, which would meet internal and external space standards, I conclude that the development would not have an adverse impact on the identified local housing need. I am satisfied that No 17 would be suitable for conversion, as it would be

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<sup>2</sup> London Borough of Hounslow Local Plan 2015-2030

part of a larger scheme. Consequently, the development would comply with Policy SC6 of the Local Plan, which seeks to manage the subdivision of the existing housing stock to contribute to housing supply, whilst preserving the character of an area and residents' amenity.

### *Form of Development*

8. The appeal premises comprise three houses, which form part of a terrace fronting Kingsley Road. The gable to No 19 sits alongside a secondary access to a bus station, which is located to the rear of the site. Although the Council describes the road as having a residential function, I consider that the area is mixed in character and appearance. I saw from my site visit that a number of the houses along Kingsley Road have been converted to other uses, including retail, office and food outlets. Residential development is interspersed with these other uses, and many of the commercial premises have residential accommodation on the upper floors.
9. The Council's strategy, as set out in Policy TC3 of the Local Plan, is to direct town centre uses towards designated centres. The aim of the strategy is to support regeneration objectives and focus town centre uses in areas of growth. The solicitor's office is not within a designated town centre or other key location, where the use would be considered appropriate. Policy TC3 provides that proposals for town centre uses in other locations should be considered on the basis of sequential and impact assessments, neither have been submitted in this case. However, it is clear from the policy that impact assessments are only required where development of over 2,500sqm of floorspace is proposed. Consequently, an impact assessment is not applicable in this case.
10. The National Planning Policy Framework (the Framework) states that when considering out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. I note the site has a public transport accessibility level of 6a 'Excellent', therefore, it can be reasonably be assumed that the site is accessible. Also, the Framework continues that local planning authorities should demonstrate flexibility on issues such as format and scale. While No 19 is not located within a designated town centre, its use as a solicitor's office is limited in scale. The development is unlikely to have a significantly harmful effect on growth and regeneration objectives or impact on the vitality and viability of existing town centres.
11. I conclude on this matter that the proposal would be an appropriate form of development in this location, which would not adversely affect the character and appearance of the area. It would, therefore, comply with Policy TC3 of the Local Plan, which seeks to manage effectively the growth of retail and other main town centre uses.

### *Living Conditions*

12. The solicitor's office would be located on the ground floor of No 19. There would be residential accommodation above and further residential uses in the neighbouring properties. I consider that the use is compatible with the adjoining residential uses. By its nature, a solicitor's office would not generate high levels of noise and disturbance as employees would be using the premises to carry out office work. I appreciate that there may be more comings and goings due to the activity of employees and clients, but the premises is small scale and such activities would be limited. Moreover, the premises would be in

use during normal working hours and not during the later evening or at weekends when neighbouring occupants would be expecting quiet enjoyment of their home.

13. I also noted that the ambient noise levels in the area during the time of my site visit, in the early afternoon, were relatively high. This was primarily due to traffic noise from the road, the nearby traffic junction and the bus station. I consider that the solicitor's office use in this location is unlikely generate noise levels over and above ambient levels.
14. To conclude, I find that the development would not lead to harm to the living conditions of adjoining occupiers. Therefore, the development would comply with Policies SC6, CC1 and CC2 of the Local Plan, which seek to protect the amenity of current and future residents and ensure development is compatible with the character and context of the area.

#### *Conditions*

15. A condition to require the extension to be constructed in matching materials is necessary to protect the appearance of the building.
16. I have imposed a variation of the Council's suggested condition to require the screening to the first floor roof terrace to be fitted with obscure glazing, to protect the privacy of neighbours. I have also imposed the Council's condition to restrict the use of No 19 ground floor area to a solicitor's office to avoid any doubt. It is necessary to control the hours of use, in accordance with the details submitted with the planning application, to ensure the living conditions of neighbouring occupants are protected.
17. I have not imposed the suggested conditions to remove permitted development rights as it has not been demonstrated that this is necessary. In any event, it should be borne in mind that, for permitted development purposes, Article 2 – interpretation, to The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended defines a "dwellinghouse" in the following terms: ...except in Part 3 of Schedule 2 to this Order (changes of use), does not include a building containing one or more flats, or a flat contained within such a building. In addition, condition 3 restricts the ground floor area to solicitor's office.
18. Similarly, the suggested conditions that would require details of fans, ducts and plant and facilities for waste storage have not been shown to be necessary. The Council is seeking a condition to require separate access to the upper floor accommodation to be provided and made available at all times, but this is shown on the approved plans, and so the condition is not necessary.
19. Finally, a condition requiring covered cycle parking is suggested but site constraints would make it extremely difficult to provide this. Therefore, the condition is not reasonable, or necessary given the site's excellent accessibility rating.

#### *Conclusion*

20. For the reasons given above I conclude that the appeal should be allowed.

## **Appeal B**

### *Matters Concerning the Enforcement Notice*

21. The appellant contends that the enforcement notice is too vague and open to interpretation. Under s173(1)(a) of the 1990 Act, as amended, an enforcement notice shall state the matters which appear to the local planning authority to constitute the breach of planning control. S173(2) says that a notice complies with s173(1)(a) if it “enables any person on whom a copy of it is served to know what those matters are”.
22. The allegation refers to “the conversion of the property from residential (C3) to a solicitor’s office (A2)”. It is clear from the evidence that No 19, which was a dwellinghouse, had changed use to a solicitor’s office at the date of the notice. This amounts to a material change of use as opposed to a conversion as stated. Also, the relevant Use Classes are included, which is unnecessary. Consequently, I consider that the allegation could be corrected to “without planning permission, the material change of use from a dwellinghouse to a solicitor’s office”. The requirements should flow from the corrected allegation and simply require the cessation of the solicitor’s office use. I am satisfied that these corrections would address the appellant’s concerns and can be made without injustice to the appellant or the Council.

### *The Appeal on Ground (g)*

23. The appellant has submitted an appeal under s78 of the 1990 Act and seeks to delay compliance with the enforcement notice until that appeal has been determined. I note in the appellant’s final comments that an extended period for compliance of nine months has been requested given that it will impact on a commercial enterprise. This has been introduced late in proceedings and the Council has not had the opportunity to provide comments on this aspect of the appeal. By making the appeal against the enforcement notice, the appellant has already delayed the date when the notice will come into effect irrespective of the outcome of the s78 appeal.
24. I have taken into account the need for the appellant to find alternative premises for his business, but there is no evidence before me to explain why this would take nine months. Consequently, I consider that three months from the date of this decision would be a reasonable time for compliance given that the unauthorised use can cease relatively quickly. The appeal on ground (g) fails.
25. The notice will remain extant. To the extent that the planning permission granted by virtue of the S78 appeal is inconsistent with the terms of the notice, s180 of the Act will ensure the former prevails.

## **Formal Decisions**

### *Appeal A*

26. The appeal is allowed and planning permission is granted for “Change of use of 2 x dwelling-houses (Use Class C3) and a HMO (Use Class C4) to a solicitor’s office [No 19] and use of outbuilding to rear of No 17 & No 19 for ancillary storage. 2 x studio apartments (Use Class C3) and a dwelling-house (Use Class C3) with a rear/side infill extension between No 15 and No 17 to provide a shower room for the ground floor studio at No 17 and external alterations to No

15" at 15-19 Kingsley Road, Hounslow, TW3 1PA in accordance with the terms of the application, Ref 00667/15-19/P1, dated 19 December 2016, subject to the following conditions:

- 1) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.
- 2) The private roof terrace hereby permitted shall be fitted with an obscure glazed screen to all three sides, as shown on the plan (drawing number ALI/PLAN/006), prior to the occupation of the studio apartment hereby permitted and shall be retained as such thereafter.
- 3) The solicitor's office shall operate from the ground floor of No 19 Kingsley Road only. This shall be used as a solicitor's office and for no other purpose (including any other purpose in Class A2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 4) The solicitor's office hereby permitted shall only take place between the following hours: 0800 – 1800 Mondays to Fridays, and at no time during the weekend or on Bank Holidays.

#### *Appeal B*

27. I direct that the enforcement notice be corrected:

by the deletion of the words "..the conversion of the property from residential (C3) to a solicitors [sic] office (A2)" in paragraph 3 after "without planning permission"; and their replacement with the words "..the material change of use from a dwellinghouse to a solicitor's office".

by the deletion of the words "..as A2 and restore the property to a condition that would enable it's [sic] use as a single dwelling" in paragraph 5 after "i) Cease the use of the property"; and their replacement with the words ".. as a solicitor's office."

by the deletion of "ii) remove all resultant debris from the Land".

28. Subject to these corrections, the appeal is dismissed and the enforcement notice is upheld.

*Debbie Moore*

Inspector