



Appeal Decisions

Site visit made on 4 February 2020

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2020

Appeal A: APP/F5540/C/19/3223081

Appeal B: APP/F5540/C/19/3223082

Premises known as 30 St. Paul's Close, Hounslow TW3 3DE

- 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 made by Mr Shambu Nath Bansal (Appeal A) and Mrs Sudershan Bansal (Appeal B) against an enforcement notice issued by the Council of the London Borough of Hounslow.
- The enforcement notice was issued on 18 January 2019.
- The breach of planning control as alleged in the notice is Without planning permission, the unauthorised use of the side garage as a separate residential unit.
- The requirements of the notice are i) Cease the use of the side garage as a separate self-contained unit; ii) Remove all kitchen and kitchen related facilities from the side garage; iii) Remove all bathroom and bathroom related facilities from the side garage; iv) Remove all the resultant debris from the land.
- The period for compliance with the requirements is 3 months.
- The appeals are proceeding on the ground set out in section 174(2)(d) of the Town and Country Planning Act 1990 as amended.

Summary of Decisions: The appeals are dismissed and the enforcement notice upheld.

Reasons

The appeals on ground (d)

1. The ground of appeal is that at the date when the notice was issued, no enforcement action could be taken. In order to succeed on this ground it would be necessary for the appellants to show, on the balance of probability, that the use of the side garage as a dwelling had commenced at least 4 years before the notice was issued, that is by 18 January 2015, and had continued in such use over a four year period. It must be shown that there has not been any significant interruption in the use, in order to demonstrate the necessary continuity.
2. From my visit it was apparent that the unit subject to the appeals was segregated from the remaining ground floor area of the building, without any internal access between the two. It was equipped with the facilities for day to day living, including cooking, washing and potential sleeping areas. It seems that it would have been able to provide an independent unit of accommodation, although it did not appear to be occupied at the time of my visit, with the front of the premises being used to store miscellaneous household items.

3. The appellants' grounds of appeal indicate that the unit was refurbished in 2005. A significant quantity of sales receipt copies have been submitted, which relate to the purchase of building materials. However, a large majority of these receipts are dated 2006 and 2007, therefore later than the refurbishment date given. In any event there is no information on the receipts in question to link the various building products to the alleged unauthorised development.
4. Various photographs, dated 2005 and 2012, have also been submitted. However, even if these do relate to the interior of the unit in question, such that the change of use occurred several years ago, no evidence, for example tenancy agreements, rent receipts or statutory declarations have been provided to support the proposition that the unit has been used continuously as residential accommodation, without any material break in occupation, for the required 4-year period.
5. The appellants have responded to a Planning Contravention Notice issued by the Council in February 2018. Within this response the names of residents occupying No 30 at the time, along with the length of time they had lived there, was given. However it is unclear from this response which, if any, of the residents were associated with the unit subject to these appeals, and if they were, whether they had lived there continuously.
6. Accordingly, I am unable to conclude, on the balance of probability, that the change of use is immune from enforcement due to the passage of time. The ground (d) appeals therefore fail.
7. The appellants have responded to third party objections, stating that the third party in question is not affected by the development; that they have themselves constructed an unauthorised extension at No 31 and have also converted a property elsewhere in St Paul's Close. The appellants also state that there are other houses in multiple occupation nearby. These considerations, however, relate to the merits of the case and are not relevant to the ground (d) appeals under consideration.

Conclusion

8. For the reasons given above I conclude that the appeals should not succeed.

Formal Decisions

9. The appeals are dismissed and the enforcement notice is upheld.

Roy Merrett

INSPECTOR