



Appeal Decision

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 April 2020

Appeal Ref: APP/T5150/C/19/3242725

12 Craven Park Mews, London, NW10 8SS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the Act).
- The appeal is made by Mr Mohamed Nazir Dashti on behalf of L & P Motors against an enforcement notice issued by the Council of the London Borough of Brent.
- The enforcement notice was issued on 30 October 2019.
- The breach of planning control as alleged in the notice is:
 - Without planning permission, the material change of use of the premises to a vehicle repairs, car breaking, car wash, vehicle servicing and maintenance, vehicle spraying, tyre fitting, wheel balancing, puncture repairing, vehicle sales, vehicle storage, tyre storage, vehicle hire, sale of vehicle parts, and other uses associated with vehicle maintenance, repair and sales. ("the unauthorised change of use") AND
 - Without planning permission, the erection of extensions to the front and side of the existing building located adjacent to the rear boundary with Bridge Court. AND
 - Without planning permission, the installation of FOUR container like buildings/structures located along the site boundary adjoining the railway line. ("the unauthorised development").
- The requirements of the notice are:
 - STEP 1 Cease the use of the premises for vehicle repairs, car breaking, car wash, vehicle servicing and maintenance, vehicle spraying, tyre fitting, wheel balancing, puncture repairing, vehicle sales, vehicle storage, tyre storage, vehicle hire, sale of vehicle parts, and other uses associated with vehicle maintenance, repair and sales, and remove all signs, posters and flyers associated with the unauthorised change of use from the premises.
 - STEP 2 Demolish the extensions to front and side of the existing building located adjacent to the rear boundary with Bridge Court as shown cross-hatched in yellow on the attached Plan A.
 - STEP 3 Demolish the FOUR containers like buildings/structures located along the site boundary adjoining the railway line.
 - STEP 4 Remove all items, materials, and equipment, associated with the unauthorised change of use and development, and arising from the demolition of the unauthorised development from the premises.
- The period for compliance with the requirements is 3 months
- The appeal is proceeding on the grounds set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended.

Summary decision: The appeal succeeds in part and the enforcement notice is upheld with variations in the terms set out below in the Formal Decision.

Procedural Matters

1. The appeal on grounds (a) and (f) were formally withdrawn by the appellant.
2. Therefore, the current appeal relates solely to the appeal on ground (g). Due to current Government policy regarding Covid-19 and restricting social contact, I

have not undertaken a site visit, but instead made a desk-based assessment to determine whether the time given to comply with the notice falls short of what should be reasonably allowed. This is considered appropriate given that there is no ground (a) appeal and I'm not considering the planning merits of the unauthorised use and development.

Appeal on ground (g)

3. This ground of appeal is that the time given to comply with the notice is too short. The Council has given a 3 months compliance period. The appellant has requested a period of at least 6 months and has given a number of reasons for this. Firstly, he considers that the additional time is required to prepare the necessary documents to receive planning permission for the unauthorised use and development. The appellant further states that there are a number of operators involved and ceasing all activities on site without finding alternative premises would have a harmful economic effect on the operation and viability of each of business. The appellant also states that should planning permission being refused, the additional time is required to cease operations and remove all items in accordance with the notice. The appellant also refers to current Government policy regarding Covid-19 and restricting social contact, and as a result the premises currently remains closed to members of the public, and only open for emergency vehicles involved with controlling the current pandemic.
4. Given that a ground (a) appeal has been withdrawn, I must take the notice at face value. The notice identifies harm in relation to 1) the living conditions of neighbouring occupiers, with regards to noise and disturbance, 2) character and appearance of the area; and 3) highway and pedestrian safety. However, the time for completing the requirements should be what is reasonably considered necessary to complete the requirements.
5. The requirements of the notice seek:
Step 1) cessation of the use;
Steps 2 and 3) demolition of the unauthorised development.
Step 4) removal of all items associated with the use and development.
6. The cessation of the use within 3 months seems reasonable and proportionate, in light of the harms identified. However, for steps 2, 3 and 4, I consider that 6 months would strike a more reasonable and proportionate balance in light of the current pandemic, and to obtain quotations, appoint a contractor and carry out the demolition works, should retrospective planning permission not be granted for the unauthorised use and development.
7. I also note that the current situation with the pandemic is fluid and it is unclear how long restrictions associated with this will last. In this respect, the Council have confirmed that they have discretionary powers to extend the compliance period provided the appellant can demonstrate good reasons for doing so.
8. I shall therefore extend the period for compliance for steps 2, 3 and 4 only from 3 months to 6 months. To this extent, the ground (g) appeal succeeds and I will vary the notice accordingly.

Conclusion

9. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it. The appeal on grounds (g) succeeds to that extent.

Formal Decision

10. It is directed that the enforcement notice is varied by:
- deleting the words "3 months after this notice takes effect." within schedule 5 (Time for Compliance) and its replacement with "3 months after this notice takes effect for Step 1 listed above, and 6 months after this notice takes effect for Steps 2, 3 and 4 listed above".
11. Subject to the variations, the enforcement notice is upheld.

R Satheesan

INSPECTOR