



Appeal Decision

by Roy Curnow MA BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 October 2020

Appeal Ref: APP/F5540/C/20/3249017
203 Great West Road, Hounslow TW5 0DQ

- 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 appeal is made by Mr Rajesh Bansal against an enforcement notice issued by the Council of the London Borough of Hounslow ('the notice').
 - The enforcement notice, numbered CURE/2018/00244, was issued on 14 February 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised conversion of the property into two self-contained flats.
 - The requirements of the notice are (1) Cease the use of the property as two self-contained flats; (2) Remove all but one of the kitchen and associated kitchen facilities; (3) Remove all but one of the bathroom and associated bathroom facilities; (4) Remove the sub dividing doors; and (5) Remove all the resultant debris from the Land.
 - The period for compliance with the requirements is 3 month after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(d) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Reasons

2. The case to be made under ground (d) is at the time when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters. The onus is on an appellant to prove their case on the balance of probability, using evidence that is precise and unambiguous.
3. From the evidence, the property is a two-storey semi-detached property that lies on the south side of the Great West Road, the A4. It has been sub-divided horizontally to form two self-contained flats.
4. The appellant's case sets out the statutory framework and case law to be applied in this appeal. In respect of the latter, the decisions in *Thurrock BC v SSETR & Holding (CA)* [2002] and *Swale BC v FSS & Lee* [2005] EWCA Civ 1568, [2006] are cited. From these, in essence, it is for the appellant to show that the material change of use of 203 Great West Road to two self-contained flats ('the use') took place at least 4 years before the issue of the enforcement notice, that the use was continuous for 4 years thereafter and that the use was not subsequently lost. Given that the notice was issued on the 14 February 2020, it has to be shown that the use commenced by the 14 February 2016.

5. Assured Shorthold Tenancy Agreements (ASTAs) and Tenancy Deposit Certificates (TDCs) show that on the balance of probability the first floor flat has been occupied continuously for more than four years. This is backed up by bank statements for the appellant. The statements show that rents and deposits, the sums for which match those on the ASTAs and TDCs, were made by the people named on those documents. These names are: during the period from 3 April 2015 to 3 April 2018, Mr Iona Aurel and Ms Anca Aurel; and, from the 5 October 2018 to 5 August 2019, Asamina Monogyiou and David Mgelantze.
6. However, I have not been provided with the same level of evidence with regards to the ground floor flat. An ASTA dated 5 April 2015 and an associated TDC show that the flat was occupied by Ashley Collado and Brahami Mouloud.
7. I have been provided with a Polling Card for Ashley Collado, dated 23 May 2019 that has an address of 203 Great West Road, for the European election on 23 May 2019. Further, a copy of a Household Enquiry letter from the Council's Electoral Services department, dated 25 July 2019, has been submitted.
8. The former does not show conclusively that Ashley Collado still resided at the property at that time. I do not know when the data that leads to the issuing of polling cards is collected. It might be that he completed his electoral registration, but left before the 5 April 2019, that is to say four years after his initial ASTA.
9. The letter from the Council's Electoral Services department does not state that Ashley Collado lived at the property at that time. His name is on the form within the letter as someone who Council records show had lived there. The letter is asking who lived at the property at the time it was sent out. As it has not been completed and signed, it does not provide evidence of an appropriate nature to prove occupation of the ground floor flat.
10. A range of photographs of the flats that have been submitted are not dated. There is no evidence of when they were taken and, in any event, they do not show evidence of occupation. Therefore, they carry little weight in my deliberations.
11. On the basis of the submitted evidence, I cannot be sure that the ground floor flat has been occupied for a continuous period of four years prior to the notice being issued. Therefore, the evidence before me does not show that when the notice was issued, no enforcement action could be taken in respect of the breach of planning control – namely, the use of 203 Great West Road as two self-contained flats

Conclusion

12. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Roy Curnow

INSPECTOR