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## Appeal Decision

Site visit made on 14 September 2021

**by R Satheesan BSc PGCert MSc MSc MRTPI**

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

**Decision date: 27 September 2021**

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**Appeal Ref: APP/Z5060/C/20/3265387**

**62 Legon Avenue, Rush Green, Romford RM7 0UJ**

- 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 Azad Khan on behalf of N S Car Hire Ltd against an enforcement notice issued by the Council of the London Borough of Barking & Dagenham.
- The enforcement notice was issued on 16 December 2020.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised change of use of the property to a Car Hire Company (Sui Generis).
- The requirements of the notice are:
  - Cease operating the premises as Car Hire Company (Sui Generis).
  - Remove all alterations and fixtures related to the Car Hire Company (Sui Generis).
  - Remove all consequent waste material from the premises.
- The period for compliance with the requirements is 1 month.
- The appeal is proceeding on the grounds set out in section 174(2) (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

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

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### Decision

1. It is directed that the enforcement notice be varied by:
  - Deletion of steps 2) under section 5 (What you are required to do).
2. Subject to this variation, the enforcement notice is upheld.

### *The appeal on Ground (f)*

3. The appeal on this ground is "that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters (i.e., the matters alleged in the notice) or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".
4. The enforcement notice requires 1) the use of the premises for a car hire company (Sui Generis) to cease; 2) the removal of all alterations and fixtures related to the Car Hire Company and 3) the removal all consequent waste material from the premises. As such, the purpose of the notice is to remedy the breach of planning control rather than only remedy any injury to amenity.

5. The appellant states that he has not built anything, nor has he carried out any alterations in the rear garden for storage. He further states that he simply used the side entrance to park a few cars. Furthermore, I saw no evidence of any alterations or fixtures being carried out at the property in relation to the Car Hire Company. Therefore step 2, which requires the removal of all alterations and fixtures is excessive to remedy the breach of planning control.
6. The breach of planning control could be addressed through compliance with step 1 and 3 only. This would achieve the purpose of the notice which is to remedy the breach. As such, step 2 is excessive since there are no alterations and fixtures relating to the Car Hire Company. Therefore requirement/bullet point 2 on the notice clearly goes beyond what is necessary to remedy the breach of planning control.
7. The appeal on ground (f) succeeds and I will vary the notice to remove this excessive requirement.

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

8. The appeal on this ground is that any period specified in the notice falls short of what should reasonably be allowed. The appellant asks that the time for compliance is extended from 1 month to 3 months, in order to provide the appellant with additional time to sell and remove the vehicles and close the company, especially in light of the current situation with the Covid-19 pandemic.
9. The time for completing the requirements should be what is reasonably considered necessary to complete the requirements, and since the appeal was lodged, we are now in a different situation with the pandemic, with the easing of social distancing restrictions. I also observed during my site visit that no vehicles were being stored at the premises in connection with the use as a car hire company. Therefore, the 3 months requested by the appellant to comply with the notice is disproportionately excessive to complete the requirements. I conclude that 1 month given, would be reasonable and proportionate time to comply with the notice.
10. On this basis, the appeal on ground (g) fails.

### **Conclusion**

11. I conclude that requirement 2 of the notice is excessive to remedy the breach of planning control. I shall vary the enforcement notice prior to upholding it. The appeal on ground (f) succeeds to that extent.

*R Satheesan*

INSPECTOR