



Appeal Decisions

No Site Visit required

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 15 October 2021

Appeal A Ref: APP/C3240/C/21/3278329

29 Horsehay Common, Horsehay, TELFORD, TF4 2LT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mrs Leanne Turvey against an enforcement notice issued by Telford and Wrekin Council.
 - The notice, reference: ENF/2020/0349, was issued on 3 June 2021.
 - The breach of planning control as alleged in the notice is Without planning permission, the material change of use of the land from residential to a mixed use of residential and personal fitness training business.
 - The requirements of the notice are to: cease the use of the land for all personal fitness training activities.
 - The period for compliance with the requirement is: 1month.
 - 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 have lapsed.
 - An identical appeal has been made by Mr Turvey reference APP/C3240/C/21/3278330
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Decisions – 3278328 & 3278330

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

Preliminary Matters

2. There is no dispute that the appellants have been using their garage for personal fitness training but they argue that it does not cause a nuisance to neighbours. However, there is no ground (a) so the merits of whether or not the garage is suitable for the use alleged are not before me. The appeal is only pursued on grounds (f) and (g).

The Appeal on Ground (f)

3. This ground is that the requirements are excessive. The allegation is a material change of use to a mixed use which consists of the residential use and the personal fitness training. The requirements are to cease the personal fitness training. No other requirements have been suggested and no explanation as to how that requirement is excessive have been made. The arguments as to whether or not the use is actually harmful are all for ground (a) and in the absence of that ground cannot be considered under ground (f). The appeal on ground (f) fails.

The Appeal on Ground (g)

4. From the submissions made it seems this is really the crux of the matter. The appellants don't want the expense of making a planning application or a ground

(a) appeal to regularise the situation as they are moving house. This makes sense as they have no long term intention of retaining the fitness studio. Back in July, they suggested they were after an agreement to keep using the garage during the sale process. However, the way the enforcement system has been set up does not allow for an open ended compliance period to be imposed, I have to attach a fixed time limit. Also as the Council point out, they consider the use is harmful and should cease so there is no reason why it should be allowed to go on until the house is sold and there is no guarantee when that will be.

5. Consequently, I have no evidence as to how long the time period might be reasonably extended for, even if I were minded to do so. It might be the appellants have moved out already. In any event the period imposed by the Council will not come into effect until this decision is issued which will give the appellants a further month from that date, which seems reasonable to me. The appeal on ground (g) therefore fails.

Simon Hand

INSPECTOR