



Appeal Decisions

Site visit made on 17 January 2022

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 February 2021

Appeal A: APP/F5540/C/21/3269911

Appeal B: APP/F5540/C/21/3269912

Premises known as 12 Williams Drive, Hounslow TW3 3RG

- 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 Bhupinder Vig (Appeal A) and Mrs Parvinder Vig (Appeal B) against an enforcement notice issued by the Council of the London Borough of Hounslow.
 - The enforcement notice was issued on 29 January 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of a garage to a separate self-contained residential unit.
 - The requirements of the notice are: i. Cease the use of the garage as a separate self-contained residential unit. ii. Remove all bathroom and associated bathroom facilities within the garage (i.e. shower/bathing facilities, WC, wash basin and pedestal). In addition to the above items all water piping and all waste connections. iii. Remove all kitchen facilities and associated kitchen facilities within the garage (i.e. all kitchen and washroom facilities, facilities to include the following items – kitchen wall and base units, kitchen sink, kitchen work top surfaces, cooking facilities and cooker hood). In addition to the above items all water, gas and supply piping and waste connections. iv. Return the garage to a condition to enable its lawful use v. Remove all resultant debris from the Land.
 - The period for compliance with the requirements is 3 months.
 - The appeals are proceeding on the grounds set out in section 174(2)(d) 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.
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Summary of Decisions

1. The appeals are allowed following correction of the enforcement notice in the terms set out below in the Formal Decision.

Preliminary Matters

2. The parties opted for the appeal to be determined by means of written representations and did not identify injustice that would otherwise arise. I am content to determine the appeal on the written evidence that is already before me, and do not consider that injustice would arise.
3. Neither party attended my scheduled site visit. However, given the appeals proceed on ground (d) only and there are no other facts or matters in dispute that require an internal site inspection, I can proceed with my assessment

based upon the written evidence already before me, without causing injustice to the parties.

4. The notice requires, amongst other things, to return the garage to a condition to enable its lawful use. That is however vague and imprecise and given the other requirements, which remedy the breach of planning control, I intend to delete it. Injustice to the parties however does not arise from making this correction.

The ground (d) appeals

5. For the ground (d) appeal to succeed the onus is on the appellants to demonstrate, on the balance of probabilities, that at the time the enforcement notice was issued it was too late to take enforcement action against the matter stated in the notice, namely the material change of use of a garage to a separate self-contained residential unit (the flat). A relevant period in this regard is therefore a continuous period of use of 4 years preceding the issue of the notice, which is dated 29 January 2021 (a relevant period).
6. To this effect one of the appellants has provided a statutory declaration which outlines that in 2015 the garage was converted into a flat. Several invoices have then been provided from January and February 2015 relating to some of the works undertaken, and I then have no actual evidence that leads me to consider they are dubious.
7. The appellant then states the flat was let to a tenant on 30 June 2015 and the tenancy was renewed on 30 June 2017. The tenancy was then not renewed by that tenant in 2019. Copies of these two signed tenancies have been provided which demonstrate this on the balance of probabilities for the period 30 June 2015 to 30 June 2019: which is also a relevant period. That they are not signed by a letting agent does not evidence ambiguity, and the appellants have since explained the agent will only sign when they are not available to do so.
8. The appellants then state the flat has since been let to a new tenant. All tenancies have been managed by the letting agent. That agent then provides a letter, dated 17 February 2021, which corroborates the appellant's version of events and that they continue to deal with the management of the flat. Copies of subsequent tenancy agreements are then also before me.
9. The Council has provided an extract of records from the Electoral Register which they consider demonstrates that tenants moved between two of the appellants properties, Nos.12 and then 12A (being the flat) in 2017/18. In response the appellants state the original tenant of No.12 lived with his son. In 2015, the tenant then entered into a new tenancy for his son to occupy No.12A. In 2017, the son then vacated No.12A and the original tenant moved into No.12A, vacating No.12.
10. The Council has also provided a copy of a tenancy agreement that was originally submitted for the purposes of Council Tax. This relates to a term commencing in February 2017. The appellant denies any knowledge of this.
11. Whilst this does cast some doubt in my mind, in considering the evidence in the round the appellant's evidence is otherwise precise concerning the works and letting of the flat since 2015, including in response to a Planning Contravention Notice, dated 27 November 2020. That no utility bills have been provided does not amount to contradictory evidence that undermines the

appellants version of events or the weight that should be afforded to this. There is also no contrary evidence to demonstrate the flat has then not been used independently throughout a relevant period.

12. As a matter of fact and degree the appellants have therefore demonstrated on the balance of probabilities that at the time the enforcement notice was issued it was too late to take enforcement action against the matter stated in the notice, namely the flat. They have accordingly discharged the necessary burden of proof.

13. The appeals on ground (d) therefore succeed.

Overall Conclusion

14. For the reasons given above I conclude that the appeals should succeed on ground (d). Accordingly, following correction, the enforcement notice will be quashed.

Formal Decisions

Appeals A and B

15. It is directed that the enforcement notice be corrected by:

- deleting the words '*iv. Return the garage to a condition to enable its lawful use*'.
- numerating requirement '*v.*' as '*iv.*'.

16. Following these corrections, the appeals are allowed, and the enforcement notice is quashed.

Paul T Hocking

INSPECTOR