



Appeal Decision

Site visit made on 7 February 2022

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2022

Appeal Ref: APP/Y5420/C/20/3256379

Land at the rear of 14 Glenwood Road, London N15 3JU

- 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 R Rafael against an enforcement notice issued by the Council of the London Borough of Haringey.
 - The enforcement notice was issued on 17 June 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the land to storage; the siting of a shipping container and a portacabin which is used for residential purposes.
 - The requirements of the notice are: 1. Cease the use of the land for storage purposes; 2. Remove from the land the metallic shipping container; 3. Cease the use portacabin for residential purposes and remove the portacabin from the land; 4. Remove any resultant debris from carrying out steps 1, 2 and 3.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(b) 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 Decision

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

Preliminary Matter

2. As there is no ground (a) appeal before me, I am unable to consider whether planning permission should be granted to retain the other developments the subject of the enforcement notice, which ostensibly relate to a storage use.

The Enforcement Notice

3. The enforcement notice contains a number of minor errors that require correction. Accordingly, the allegation relates to three breaches of planning control which are not sufficiently distinguished; the notice relates to both a material change of use and the siting of buildings, being the shipping container and portacabin, and therefore should have been issued on basis of the breaches having occurred within the last 4 and 10 years respectively; there is reference to a 'metallic' shipping container in the second requirement which is inconsistent with the allegation; and, there is a typographical error in the third requirement. However, given the minor nature of these corrections, and case pleaded by the appellant, injustice to the parties does not arise.

The ground (b) appeal

4. For the ground (b) appeal to succeed the onus is on the appellant to demonstrate, on the balance of probabilities, that the alleged breaches of planning control have not occurred as a matter of fact when the notice was issued.
5. In this respect, the appellant only contends that the portacabin was not being used for residential purposes but was instead used as an office and work cabin. He therefore does not contest the other developments attacked by the notice.
6. The Council states that during its site visit on 21 May 2020 the portacabin contained a shower, toilet, cooking facilities, fridge, microwave, kettle, satellite dish, bunkbed as well as other amenities required for day to day living. Photographs to this effect are then before me. It is also claimed the appellant said the portacabin was not used for full time living, which is then not disputed, and which demonstrates on the balance of probabilities that some form of residential use was subsisting. Moreover, there is some evidence of a potential residential use provided by a neighbouring occupier, which adds weight to the Council's allegation.
7. During my site visit the portacabin was not in a residential use. However, the onus was on the appellant to demonstrate his case in respect of when the notice was issued, which was 17 June 2020.
8. Given there is very limited evidence before me, the appellant has therefore not discharged the necessary burden of proof to demonstrate on the balance of probabilities that the alleged breach of planning control had not occurred as a matter of fact in respect of the siting of a portacabin for residential purposes.
9. The appeal on ground (b) therefore fails.

Conclusion

10. For the reasons given above I conclude that the appeal should not succeed. I shall therefore uphold the enforcement notice with corrections.

Formal Decision

11. It is directed that the enforcement notice be corrected by:
 - substituting the words '*Without planning permission, the material change of use of the land to storage; the siting of a shipping container; and, the siting of a portacabin used for residential purposes.*' for those at section 3 of the notice.
 - inserting the words '*FOUR and*' between the words '*within the last*' and '*TEN years*' at section 4 of the notice.
 - deleting the word '*metallic*' from requirement 5. 2. of the notice.
 - inserting the words '*of the*' between the words '*Cease the use*' and '*portacabin*' at requirement 5. 3. of the notice.

12. Subject to these corrections the appeal is dismissed and the enforcement notice is upheld.

Paul T Hocking

INSPECTOR