



---

# Appeal Decision

**by Gareth Symons BSc(Hons) DipTP MRTPI**

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

**Decision date 17 October 2024**

---

**Appeal Ref: APP/T5150/C/23/3320177**

**15 Rossdale Drive, London NW9 8NP**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Manbai Patel against an enforcement notice issued by the Council of the London Borough of Brent.
  - The notice was issued on 9 March 2023.
  - The breach of planning control as alleged in the notice is: The material change of use of the premises from one to two dwellings. ("the unauthorised change of use").
  - The requirements of the notice are: Step 1. Cease the use of the premises as two dwellings and restore the premises back into a single family dwellinghouse and do not use for any other purpose except as a single family dwellinghouse; Step 2. Remove the kitchen, the bathroom and all internal partitions in the former garage; Step 3. Remove the unauthorised window and install a garage door as shown in the 'photograph' attached to this notice.
  - The period for compliance with the requirements is: 6 months.
  - 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).
- 

## Decision

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

## Procedural Matter

2. There is no deemed planning application. As such, there are no matters of planning merit before me that may have required a visual site inspection. In any event, the Council has supplied several photographs showing the interior of the residential unit and some of the outside. The grounds of appeal made only require consideration of whether the requirements of the notice exceed what is necessary to remedy the breach of planning control, and whether the time for complying with those requirements is unreasonably short. I have written evidence from both sides on these grounds.
3. In view of the above, I have determined the appeal without the need to visit the site. Neither side has been prejudiced by this course of action.

## Ground (f)

4. The notice attacks the material change of use. The notice's requirements seek to cease the unauthorised use and for the works enabling that use to be removed and for the land to be put back to the way that it was before the unauthorised change of use and associated works took place. It is clear, therefore, that the purpose of the notice falls under s173(4)(a) of the 1990 Act, which is remedy the breach of planning control by discontinuing the use and restoring the land to its condition before the breach took place. That is the context for considering the ground (f) appeal.

5. An enforcement notice directed at a material change of use, as in this case, may require the removal of works integral to and solely for the purpose of facilitating the unauthorised use, even if such works on their own might not constitute development, or they would be permitted development or immune from enforcement, so that the land is restored to its condition before the change of use took place. In such cases, it is not necessary for the allegation to refer to such works. Therefore, while it is noted that the window installed in place of the garage door is not mentioned in the allegation, it does not need to be. Furthermore, while installing such a window may be development granted planning permission by the Town and Country Planning (General Permitted Development) Order 2015, such a right does not grant permission for development already carried out.
6. It is not unusual for a house to have downstairs bathroom facilities. However, the bathroom facilities and all the other works were carried out for facilitating the unauthorised use. To meet the purpose of the notice, the cessation of the use and the complete removal of all those works, and the reinstatement of the garage door do no more and no less than what is necessary to remedy the breach of planning control.
7. In the above context, the ground (f) appeal fails.

#### **Ground (g)**

8. Evicting a tenant who has a 12 months assured tenancy agreement may be problematic and take longer than the six months specified for complying with the notice. However, that may not be the case and the Council has reasonably pointed out that if genuine attempts to evict a tenant and comply with a notice can be demonstrated, it does have the power under s173A(1)(b) of the 1990 Act to waive or relax any requirement of a notice, including the period. That would be a matter for separate future consideration away from this appeal.
9. To me, six months is not an unreasonably short period of time to comply with the steps set out in the notice. Consequently, the ground (f) appeal also fails.

#### **Conclusion**

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

*Gareth Symons*

INSPECTOR