



Appeal Decisions

Site visit made on 22 October 2024

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 December 2024

Appeal A Ref: APP/G5750/C/22/3312348

Appeal B Ref: APP/G5750/C/22/3312349

Garage to rear of 465 Romford Road, Forest Gate, London E7 8AB

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - Appeal A is made by Mr A Khan and Appeal B by Mr Mubarak Hussain Valli against an enforcement notice issued by the Council of the London Borough of Newham.
 - The notice was issued on 4 November 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the premises to a car spraying workshop.
 - The requirements of the notice are:
 1. Cease the use of the premises as a car spraying workshop.
 2. Remove all fixtures, fittings and paraphernalia that solely facilitates the use as a car spraying workshop.
 3. Remove from the site all debris arising from compliance with steps 1 and 2.
 - The period for compliance with the requirements is one month.
 - The appeals are proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 (as amended).
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Decision

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

Application for costs

2. An application for costs was made by the Council of the London Borough of Newham against Mr A Khan and Mr Mubarak Hussain Valli. This application is the subject of a separate Decision.

The appeals on ground (c)

3. The appeal on this ground is that the matters alleged in the notice do not constitute a breach of planning control. The burden of proof is on the appellants to demonstrate that the matters alleged in the notice do not constitute a breach of planning control.
4. Whilst the use may have ceased since the notice was issued, the appropriate time period for the consideration of a ground (c) appeal is at the time when the notice was issued and when the appeal is determined.
5. The appellants' evidence is limited. They stated that the garage is an established garage which has been running for over three years, used for repairing cars and has previously been established as a car garage. However, they provided no evidence to demonstrate that the garage was, on the balance of probabilities, lawfully used for car repairs.

6. The garage is located to the rear of 465 Romford Road which is a three-storey mid terrace property with a retail/commercial unit at ground floor level and residential accommodation above. The garage is accessed from the rear via a shared alley off Balmoral Road.
7. The Council's submissions indicate that the garage was historically used as a machine shop in association with and ancillary to a butchers shop at No.465. In the 1990s the Council investigated the use of the garage for car repairs, but this was resolved as the use ceased. In January 2013, the Council investigated the use of the garage for food preparation and again this was resolved.
8. The Council stated that they received no further complaints about the use of the garage until May 2021 when they received a complaint regarding the use for car spraying. The Council's position is that planning permission has never been granted for the use of the garage for purposes other than a use ancillary to No.465.
9. It seems to me, in the absence of contrary evidence or explanation, that use of the garage for car spraying would generate a level of comings and goings, noise, and odours, which would not be associated with a use ancillary to a retail/commercial use.
10. When making an appeal on legal grounds, the burden of proof rests with the appellant. The appellants have provided no evidence or explanation to demonstrate that the use has not resulted in a significant difference in the character of activities from what has gone on previously.
11. Accordingly, based on the evidence, I conclude that a material change of use consisting of the use for a car spraying workshop has occurred. The appellants have failed to demonstrate that the matters alleged in the notice do not constitute a breach of planning control. The development is not development that is permitted by any development order and there is no record of planning permission having been granted for it. The appeals on ground (c) therefore fail.

Conclusion

12. For the reasons given above, I conclude that the appeals should not succeed.

Felicity Thompson

INSPECTOR