



Appeal Decision

Site visit made on 11 March 2025

by **N Thomas MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 March 2025

Appeal Ref: APP/G5180/C/24/3343865

Garage Block Associated with 27 Rushdene Walk TN16 3UG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Miss Alaina Lewis against an enforcement notice issued by the Council of the London Borough of Bromley.
 - The notice was issued on 5 April 2024.
 - The breach of planning control as alleged in the notice is without the required planning permission, the material change of use from residential use to storage of a container on the Land adjacent to the garage block associated with 27 Rushdene Walk.
 - The requirements of the notice are to:
 - (a) Permanently remove the container on the above Land.
 - (b) Remove any resulting debris on the above Land.
 - (c) Restore the land to its condition before the breach of planning control took place.
 - The period for compliance with the requirements is 1 month.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The enforcement notice is quashed.

Matters concerning the notice

2. I have a duty to try to get the notice in order, and I have powers to correct the notice under section 176(1)(a) of the 1990 Act if I am satisfied that to do so would not cause injustice to the appellant or the local planning authority.
3. The notice alleges the material change of use from residential use to storage of a container. The Council is not alleging that a new planning unit has been formed or that the residential use of the land has ceased. Therefore, it may be more accurate to describe the allegation as the material change of use from residential to a mixed use of residential and storage. I am satisfied that such a correction could be made without causing injustice.
4. That is not the end of the matter however, since there is no requirement for the storage use to cease. Therefore, by virtue of s173(11) of the 1990 Act, if the appellant complied with all the requirements of the notice and removed the container, the mixed use for storage and residential use would be lawful. There is no evidence that the Council intended to underenforce. It would cause injustice to the appellant if I correct the requirements to ensure that the storage use ceases, as this would make the requirements of the notice more onerous than if they had not lodged an appeal.
5. Furthermore, having regard to the evidence that has been submitted, it seems to me that the Council is concerned more with the installation of the storage

container, rather than the use to which it is being put. The allegation may be better framed as operational development for the installation of the storage container as a structure. It would cause injustice to the parties if I were to correct the notice to refer to operational development rather than a material change of use as they may have put forward different grounds of appeal or evidence, not least because the immunity period for enforcement action would be 4 years rather than 10 years.

Conclusion

6. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control or the steps required for compliance.
7. It is not open to me to correct the errors in accordance with my powers under section 176(1)(a) of the 1990 Act (as amended), since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed.
8. In these circumstances, the appeal on the ground set out in section 174(2)(c) of the 1990 Act (as amended) does not fall to be considered.
9. Should the Council wish to continue to pursue enforcement action, it may consider doing so by means of a replacement notice framed in the proper terms, having regard to the 'second bite' provisions of section 171B(4)(b).

N Thomas

INSPECTOR