

Grounds of Appeal

89 Messina Avenue, London, NW6 4LG

On behalf of

Messina Ltd

198 West End Lane
London
NW6 1SG

Planning Reference:

In respect of the enforcement notice

Ref EN/19/0654

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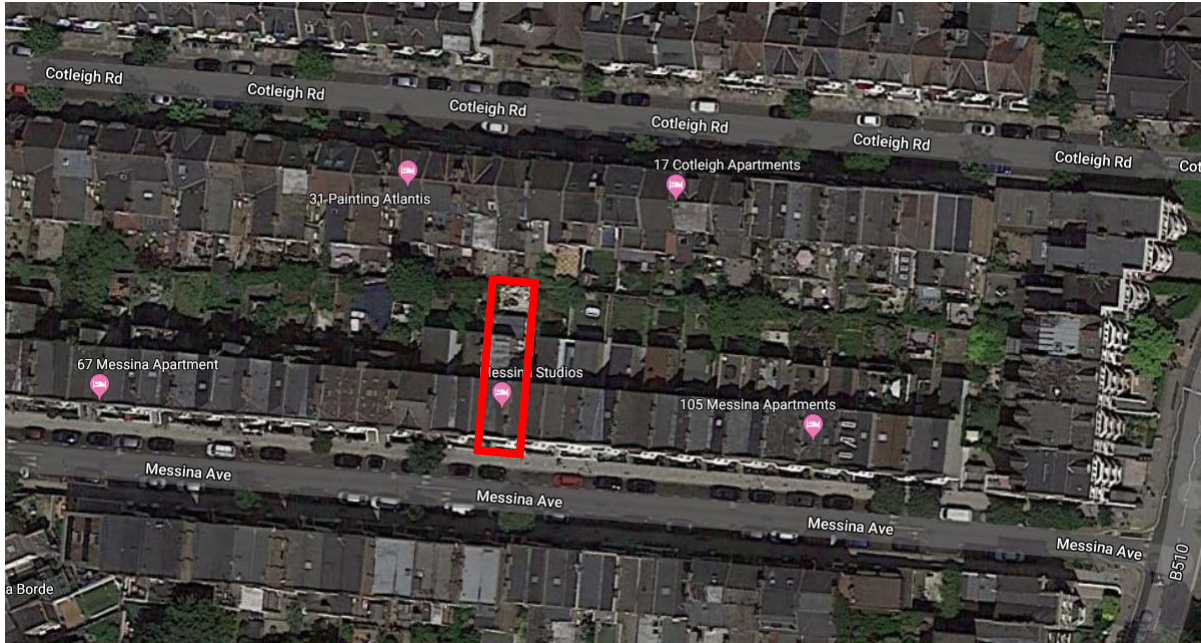
1.0 Introduction

This report provides the Grounds of Appeal against the enforcement proceedings issued by Camden Council under Section 171 A(1)(a) of the Town & Country Planning Act 1990 (As amended by the planning and compensation Act 1991) relating to the alleged unauthorised works and change of use carried out to the property that were undertaken without consent.

Terms of reference

We act on behalf of Messina Ltd, the freehold owners of the property.

Location



Description

The site which is the subject of this appeal is at No 89 Messina Avenue, London NW6 4LG. The property is a large 3 story mid terrace house, and set in the southern part of West Hampstead

2.0 Background

The Appellant bought the property in 2018 at which time it was / had been used as a house with individually rented rooms similar to an HMO

A planning application was submitted in 2018 for the conversion of the single dwelling into two self-contained flats but this was subsequently refused in September 2019 largely on the grounds that the rear extension proposed with the development was oversized.

The work to make the property into the current layout was undertaken in the earlier part of this year (2019) at which time the AC plant was also introduced.

Planning officers did visit the property while the refit works were underway but were turned away by the contractor on the first occasion and then returned by appointment at a later date when much of the refit had been completed. At which time they informed the developer that they would require planning consent for the works being carried out.

The bedrooms are now currently sublet under short term licenses to individuals on minimum 12 month terms, the last of which ends in June 2020

3.0 Grounds for Appeal

This section sets out the grounds for this appeal

Under section 174(2) of the Town and Country Planning Act 1990 there are various grounds set out under which an appeal can be made against an Enforcement Notice issued by the Local Council.

- a. planning permission ought to be granted or the condition or limitation concerned ought to be discharged;*
- b. the matters stated in the enforcement notice have not occurred;*
- c. the matters stated in the enforcement notice (if they occurred) do not constitute a breach of planning control;*
- d. at the date when the notice was issued, no enforcement action could be taken;*
- e. copies of the enforcement notice were not served in accordance with the relevant statutory requirements;*
- f. the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary either to remedy any breach of a planning control or to remedy any injury to amenity which has been caused by any such breach; and/or*
- g. any period specified in the notice falls short of what should reasonably be allowed.*

We hereby appeal under subsections (e) and (g) above.

Grounds 1

“That copies of the enforcement notice were not served in accordance with the relevant statutory requirements”

It is normal practice for the local authority to engage with the owners of the property and advise them that enforcement action is being considered and for what reason, thus giving the owner sufficient time to arrange for either obtaining planning consent for the alleged contravention or to put the matter right by reversing the unauthorised works.

In this instance I understand the appellant was visited at the property as noted above but at no point were they advised that enforcement action was being considered by the Local Authority prior to receiving the formal enforcement notice dated 1st November 2019, giving them until 13th December 2019 to correct the breach of planning.

Grounds 2

“That any period specified in the notice falls short of what should reasonably be allowed”

From the date of the notice (1st November 2019) to the date of required compliance (13th December 2019) is just 43 days with then just 1 month to Cease the use as short term lets, convert the property back to a single dwelling, remove the 9 Air conditioning units and make repairs to any fabric damage caused by the above.

This time limit is wholly inadequate for the following reasons:

- The tenants of the bedrooms are living there on min 12 month licenses, the last of which ends in June 2020
- The terms of the licenses require a minimum of 1 month notice to terminate at the end of the fixed term
- The works to reinstate the property to a single dwelling can only be started once all the residents of the rooms have vacated
- The works to convert the property back will take approx. 2 months from commencement

Had the Local Authority made initial approaches to the Owner then they would know what the terms of the various tenancies were and could have made reasonable allowances within the enforcement time scales. Since the Authorities did not engage with the owners then We assert the Enforcement notice is invalid due to its requirement for the owner to break other tenancy laws and regulations to comply.

4.0 Conclusions

It is proposed therefore, that Enforcement Notice should be rescinded for the following reasons:

- The timescale given for the remedial works to be carried out is unreasonable due to the fact it cannot begin until all residents have vacated the property
- The timescale given for the remedial works to be carried out is unreasonable due to the fact that tenancies have to be terminated within the law and termination notices cannot be served within the limited timescale given
- The Notice was not served following adequate preamble negotiations with the owners of the property.