The Planning Inspectorate

Appeal Decision

Site visit made on 5 August 2019

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 August 2019

Appeal Ref: APP/T5150/C/18/3218106
150 Coles Green Road, London NW2 7JL and land adjacent to 51 Waterloo Road, London NW2 7TS

- 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 Mohammed Algobory against an enforcement notice issued by the Council of the London Borough of Brent.
- The enforcement notice was issued on 21 November 2018.
- The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the premises to car sales.
- The requirements of the notice are: 1. Cease the unauthorised use; 2. Permanently remove from the premises ALL vehicles, portable buildings, caravans, signage and any other items associated with the unauthorised use.
- The period for compliance with the requirements is: 4 months after the notice takes effect.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Main Issue

2. The main issue is whether car sales is an appropriate use of the site, having regard to development plan policies that seek to protect Strategic Industrial Locations (SILs) for industrial employment uses.

Reasons

3. SILs are London's main reservoir of industrial land. The appeal site is within the Staples Corner SIL. In broad terms, policy 2.17 from the London Plan 2017 (LP), policy CP20 from the Brent Core Strategy (CS) and policy DMP14 from the London Borough of Brent Development Management Policies document 2016 (DMP) seek to protect SILs designated for industrial employment uses characterised by industrial use classes B1, B2 and B8, or closely related sui generis uses. Given the importance of SILs and their associated planning policy protection, any other uses or redevelopment of land in SILs is only allowed in certain limited circumstances.

4. The car sales use is clearly not an industrial use and it is not a closely related use. Nor does it fall within the other limited circumstances that could be permissible under planning policies mentioned. I appreciate that following a fire and demolition of the former construction on the site, the car sales use has provided employment and income for the employees and rates income for the Council. However, it is not the sort of employment use that adopted development plan policies seek to secure and protect. Moreover, the appellant has not shown that in the absence of car sales the site would necessarily be empty. The Council points to the apparent health and on-going investment by other businesses in the area and that it is unlikely industrial uses compatible with planning policy would not wish to occupy the land. Those potential industrial uses would also provide employment and pay rates to the Council.

5. Although the appellant says that his business only occupied the land in 2018, car sales have been taking place since 2013 and the Council's photographs from then and in 2014 show a presence by M & J Autos. The Council has also provided a history of site investigations into the car sales use and, as early as July 2013, warning letters were sent to known interested parties regarding the breach of planning control. Therefore, whilst it is suggested that a temporary planning permission could be granted for 3 or 5 years, there has already been a significant time in which to prepare for relocating the car sales business. Also, there is no substantive evidence to show that planning circumstances would have materially changed at the end of any further temporary period, such as a firm longer-term scheme in line with planning policy coming forward. There is, therefore, no clear rationale for a temporary planning permission. To do so under these circumstances would also send the wrong signal about the strength with which it was intended to protect industrial land in Brent.

6. I have also had regard to car sales being a quiet business and that it does not appear to cause any environmental harm. Nevertheless, these matters and anything else raised do not outweigh my earlier findings.

7. The car sales use does not accord with the industrial land protection aims of LP policy 2.17, CS policy CP20 and DMP policy DMP14. For the reasons given, material considerations do not indicate a decision other than in accordance with the development plan. Therefore, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Gareth Symons

INSPECTOR