
Appeal Decision

Site visit made on 19 May 2020

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th JUNE 2020

Appeal Ref: APP/T5150/C/19/3239831
55 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 Jay Prakash Gorasia, Waterloo55 Ltd. against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice, numbered E/19/0298, was issued on 19 September 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the premises for the storage, display and sale of motor vehicles ("the unauthorised change of use").
 - The requirements of the notice are: 1. Cease the use of the premises for the storage, display and sale of motor vehicles; and 2. 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.
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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.

Application for costs

2. An application for costs was made by the Council of the London Borough of Brent against Mr Jay Prakash Gorasia, Waterloo55 Ltd. This application is the subject of a separate Decision.

Preliminary matters

3. It was confirmed during the course of the appeal that the appellant is Mr Jay Prakash Gorasia, Waterloo55 Ltd., and the agent is Safa Alattar.

Main Issue

4. The ground of appeal is that planning permission should be granted in respect of the use of the premises for the storage, display and sale of motor vehicles, a mixed use. Therefore, the main issue is whether that 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

5. The appeal site lies within the Staples Corner SIL, which forms part of the capital's main reservoir of industrial land and which policy 2.17 of the London Plan identifies as particularly suitable for a range of industrial type activities. Policies CP20 of the Brent Core Strategy¹ (CS) and DMP14 of the Brent Development Management Policies (DMP)² seek to protect SILs for industrial employment uses. It is not disputed that these policies do not allow for the mixed use of storage, display and sale of motor vehicles (the use) within SILs.
6. The use does not contribute to London's competitiveness or to local employment opportunities in the way the industrial uses promoted in SILs by London Plan, CS and DMP policies do. Furthermore, it causes harm by preventing or discouraging industrial employment development that would help to meet those needs or which requires a location within the SIL because of the potential for complaint from residential and other uses elsewhere. For these reasons the use is inappropriate for the site, economically harmful, and therefore unacceptable.
7. The appellant suggests that granting permission for the use for up to 5 years would not prejudice the Council's long-term plans for the area but would allow some benefit to be derived from the land with limited outlay until economic factors support development for industrial employment uses. In this regard, I note that planning permission was granted for 4 warehouse units with ancillary office space on the site in 2005, 2010 and 2015.
8. The appellant states that economic factors prevented those permissions being taken up and also refers to the potential effect of coronavirus on future investment; however, the only supporting evidence provided is the description of 2 emails, dated 4 January 2017 and 21 March 2018, in the officer report on a planning application refused on 27 March 2019³ and, like the Council, I do not find this limited evidence convincing. In contrast, I saw on my site visit that buildings for industrial employment uses have been developed on adjacent and nearby land in recent years. Furthermore, it is not yet clear what effect coronavirus may have on investor confidence.
9. While I have seen that a planning officer indicated that the display and sale of motor vehicles at the site and erection of fencing and associated works might be approved for a 3-year period, that is clearly not the Council's formal position, which was set out in the subsequent refusal of the application in question. The Council contends that a grant of permission for the use, even on a temporary basis, would be a disincentive to implement the warehouse project and would adversely affect developer confidence in industrial employment uses by undermining the policies that promote them.
10. I have considered the possibility of permission being granted for 3 or 5 years and have had regard to the arguments in this respect described in an appeal decision relating to car sales on adjacent land at 150 Coles Green Road and land adjacent to 51 Waterloo Road⁴. As in that case, where the appeal was dismissed and the enforcement notice upheld, evidence to suggest there would be a material change in planning circumstances, such as a development in line

¹ London Borough of Brent Local Development Framework Core Strategy (July 2010)

² London Borough of Brent Development Management Policies Document (November 2016)

³ Application 19/0221

⁴ APP/T5150/C/18/3218106, determined 19 August 2019

with planning policy coming forward at the end of any temporary period, has not been presented. Accordingly, I concur that there is no clear planning rationale for granting a temporary permission and that doing so would fail to reflect the seriousness with which land for industrial employment uses should be safeguarded within SILs in Brent. Furthermore, a temporary permission would not obviate or outweigh the harm identified above.

11. For these reasons the use does not accord with the industrial land protection aims of London Plan policy 2.17, CS policy CP20 and DMP policy DMP14 and the arguments forwarded by the appellant do not outweigh the harm caused by the conflict with those planning policies. Consequently, the development is unacceptable and planning permission should not be granted, either permanently or for 3 or 5 years.

Other matters

12. The appellant argues that it is better for the land to be occupied by car sales, which would provide an income to the landowner and others and support their families, than for it to be left as dangerous and empty. However, evidence of the economic benefits and their necessity to any person, or of danger that might arise if the site were vacant, has not been provided. Accordingly, I am unable to afford significant weight to this matter.
13. I accept the appellant's points that car sales have a minimal environmental impact and do not create noise; that it is a commercial activity and that there has been no loss of residential land. However, these matters do not alter my conclusion in respect of the main issue above.
14. While business rates from the continuation of the use would benefit the Council, I cannot afford weight to this because it is not a local finance consideration that may be taken into account in decision-making.
15. Although it is true that there are other car sales businesses in the area, it is also relevant that the adjacent car sales use is the subject of an extant enforcement notice, upheld on appeal, requiring car sales to cease and all vehicles, portable buildings, caravans, signage and any other associated items to be removed.

Conclusion

16. For the reasons given, the use of the land for the storage, display and sale of motor vehicles does not comply with the development plan and this conflict is not outweighed by other material considerations. I therefore 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.

Mark Harbottle

INSPECTOR