



Appeal Decision

Site visit made on 29 June 2020

by Thomas Shields MA DipURP MRTPI

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

Decision date: 20 July 2020

Appeal Ref: APP/G4620/C/20/3248480

43-47 Burnt Tree, Birmingham, DY4 7TD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (hereafter "the Act").
 - The appeal is made by Mr Anthony Tetteh (Skyman Motors) against an enforcement notice issued by the Sandwell Metropolitan Borough Council.
 - The enforcement notice was issued on 25 February 2020.
 - The breaches of planning control as alleged in the notice are:
 - 3.1 Without planning permission the material change of use of the land from secure vacant land to car sales business (the unauthorised use).
 - 3.2 Without planning permission the construction of two detached buildings and hardstanding associated with the use of car sales business
 - The requirements of the notice are:
 - 5.1. Cease the unauthorised use.
 - 5.2 Remove all hardstanding and structures from the land.
 - 5.3 Remove from the land all materials and debris arising from compliance with the above.
 - The period for compliance with the requirements is 60 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) of the Act.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

The appeal on ground (f)

2. An appeal on ground (f) is a claim that the requirements of the notice exceed what is necessary to remedy the breach of planning control, or, as the case may be, to remedy any harm to amenity resulting from the breach. In this regard the notice requires the use of the land for a car sales business to cease and the removal of all hardstanding and structures associated with the use. It is clear therefore that the purpose of the notice is to fully *remedy the breach of planning control*.
3. A number of arguments are advanced for the appellant including; that the site has long been vacant; highway issues could be resolved by repositioning the access; vehicular movement in and out of the site is negligible; temporary structures could be relocated; compliance would result in job losses; and that potential housing development would generate more traffic than at present.
4. The appellant's arguments are more appropriate to an appeal on ground (a) in support of seeking planning permission. However, no such appeal has been made. The arguments are not relevant to the appeal on ground (f) which is limited to the question, in this case, of whether the notice requirements exceed

what is necessary in order to achieve the purpose of remedying the breach of planning control.

5. In this regard it is clear that the requirements to cease the use for a car sales business and to remove the structures and hardstanding cannot be excessive, because they go no further than remedying the breach of planning control. Indeed, any lesser requirements would not fully remedy the breach.
6. The appeal on ground (f) therefore fails.

Thomas Shields

INSPECTOR