



Appeal Decision

Site visit made on 25 August 2020

by JP Roberts BSc(Hons) LLB(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2020

Appeal Ref: APP/R5510/C/20/3245776

13 Monmouth Road, Hayes, Middlesex UB3 4JQ

- 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 Bhupinder Dhaliwal against an enforcement notice issued by the Council of the London Borough of Hillingdon.
 - The enforcement notice was issued on 18 December 2019.
 - The breach of planning control as alleged in the notice is:
Without planning permission the material change of use of the land to a mixed use comprising a dwellinghouse and use of the land for the sale and commercial storage of vehicles (Use Class sui generis).
 - The requirements of the notice are:
 - (i) *Cease the use of the land for the sale of vehicles.*
 - (ii) *Cease the use of the land for the commercial storage of vehicles .*
 - (iii) *Remove from the land all vehicles associated with the use of the land for the sale of vehicles.*
 - (iv) *Remove from the land all vehicles associated with the use of the land for the commercial storage of vehicles.*
 - The period for compliance with the requirements is 1 month.
 - The appeal is proceeding on the grounds set out in section 174(2)(a),(c),(d),(f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is allowed and the enforcement notice is quashed.

Application for costs

2. An application for costs has been made by Mr Bhupinder Dhaliwal against the Council of the London Borough of Hillingdon. This application is the subject of a separate Decision.

Reasons

Appeal on ground (c) – that the matters alleged in the notice do not constitute a breach of planning control

3. The appeal site is occupied by a semi-detached dwelling, with a wide hardstanding to the front, and a drive alongside the side of the house leading to a garage at the rear of the property. The appellant says that he runs a car sales business from the property, but the crux of his argument is that the scale and nature of the business does not materially alter the character of the use of the property as a single dwellinghouse. It is claimed that some of the cars

- kept at the property are classic cars, kept for the occupier's enjoyment, and represent a hobby rather than a business use.
4. The Council's evidence shows that the appellant is the director of a company registered in 2015 at Companies House whose business is car sales. The appellant runs a website www.mercautobarn.co.uk which advertises the sale of cars. It advertises that the business is open from 10:00 to 18:00 hours Monday to Sunday. I have also been provided with details of some cars offered for sale, but whilst that advertisement gives the appeal site address, it does not provide any evidence about the use of the appeal site, although I saw that one of the cars was present on the front hardstanding at the time of my visit.
 5. Nearly all of the Council's evidence is circumstantial, and provides little basis on which to decide whether the use of the premises for car sales and storage is materially different from the use as a single dwellinghouse. Although the Council says that the enforcement investigation was initiated following the receipt of a complaint, no representations or evidence from neighbours or other third parties about the use has been submitted.
 6. I saw on my visit that there were four Mercedes cars between around 15-20 years old kept in the rear garage and on the hardstanding in front of it. The appellant says that these are classic cars, kept for his own enjoyment, and form no part of the business. He says that they were acquired in 2010, 2016, 2017 and 2019 respectively, and are not for sale. There is no evidence to counter the appellant's explanation for the presence of these cars.
 7. As a matter of principle, it does not seem unreasonable to me that the occupier of a dwellinghouse should seek to house his private collection of classic cars at his place of residence, not only in terms of convenience but also in terms of security. In my view, these are considerations that apply universally and go beyond the whim of an individual owner or occupier.
 8. The keeping of four cars, in addition to the owner's own car for day-to-day journeys, does not appear to me to be unreasonable, having regard to the size of the property and the facilities available for storage. Looked at objectively, it therefore seems to me that the number of cars involved is not so great as to be unreasonable in the context of a hobby enjoyed from the dwelling, and thus I consider that on the balance of probabilities, these cars are kept as a use that is incidental to the enjoyment of the dwellinghouse, and are not part of the car sales business.
 9. The appellant says that he sells between 3 and 4 cars a month from home, and that there will be a maximum of 3 to 4 viewings a week, but with some weeks with no viewings. He says that whilst he advertises long opening hours, these are just times in which he may make appointments for people to view cars, and in practice he tries to ensure that they are spread out.
 10. In my view, I consider that 3 to 4 viewings a week would be of little planning consequence in the context of a busy residential street with almost constant comings and goings of vehicles. The street is characterised by houses most of which have devoted much or all of their front gardens to wide hardstandings, where I saw numerous instances of 2, 3 or 4 cars being parked on one property. There was little available on-street parking as a consequence, but in those few instances where parking could take place without obstructing access, they were largely occupied by parked cars.

11. I consider that in such a context, where there is considerable car parking, the nature and extent of the car sales business as explained by the uncontested evidence of the appellant, is of such a small scale, that it does not constitute a material change of use of the dwellinghouse. I therefore find that for this level of use, and on the balance of probabilities, planning permission is not required. I therefore conclude that the matters alleged by the Council do not constitute a breach of planning control, and that the appeal on ground (c) succeeds. It follows that the notice must be quashed.

Conclusion

12. On the balance of probabilities, the appeal on ground (c) should succeed in respect of those matters which are stated as constituting the breach of planning control. The enforcement notice will be quashed. In these circumstances, the appeal on grounds (a),(d),(f) and (g) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended do not need to be considered.

JP Roberts

INSPECTOR