



---

## Appeal Decision

Site visit made on 24 November 2020

**by L Perkins BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27<sup>th</sup> November 2020**

---

**Appeal Ref: APP/G5750/C/20/3250087**

**Land and Buildings at the junction of Ham Park Road and Upton Lane, Forest Gate, London E7 9NP, also known as The Land and Buildings at the rear of The Old Spotted Dog, 212 Upton Lane, Forest Gate, London E7 9NP**

- 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 Robert Kovalski of Robert Motors against an enforcement notice issued by the Council of the London Borough of Newham.
  - The enforcement notice was issued on 16 March 2020.
  - The breach of planning control as alleged in the notice is: Without planning permission the material change of use to a mixed use comprising a vehicle repairs and servicing workshop (B2) and vehicle storage (B8).
  - The requirements of the notice are:
    1. Cease the use of the land as a vehicle repairs and servicing workshop and for the purpose of vehicle storage.
    2. Remove from the land all fixtures and fittings that solely facilitate the use as a vehicle repairs and servicing workshop and for the purpose of vehicle storage.
  - The period for compliance with the requirements is 1 month.
  - The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.
- 

### Decision

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

### Reasons

2. An appeal on ground (c) is that the matters stated in the notice do not constitute a breach of planning control. This may be because, for example, the alleged breach is not development, or that planning permission has been granted, or that the development is permitted development pursuant to, for example, The Town and Country Planning (General Permitted Development) (England) Order 2015. The burden of proof in a ground (c) appeal falls on the appellant to make out their case.
3. In this case, the appellant states the existing building structure has not been altered since Robert Motors' occupation of the land and as such the operations alleged in the notice are not believed to amount to development, under section 55 of the Town and Country Planning Act 1990. But this is not relevant given the notice alleges a material change of use, rather than any alterations to a building.

4. The appellant further states that they believe that the site has not encroached upon the land designated as a protected green space since all use of the land is solely within its boundary area. But this is not relevant either as this relates to one of the reasons for issuing the notice and I am not able to consider the merits of the appeal development as there is no appeal on ground (a) before me.
5. As no relevant case has been made that the matters stated in the notice do not constitute a breach of planning control, the appeal on ground (c) fails.

### **Conclusion**

6. For the reasons given above, I conclude that the appeal does not succeed and I uphold the enforcement notice.

*L Perkins*

INSPECTOR