
Appeal Decisions

Site visit made on 23 November 2020

by P H Willows BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2020

**Appeal Refs: APP/W2465/C/20/3254666; APP/W2465/C/20/3254667;
APP/W2465/C/20/3254668; APP/W2465/C/20/3254669;
APP/W2465/C/20/3254670**

30 Campion Walk LEICESTER LE4 0PD

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by: Mr Farhan Sattar (APP/W2465/C/20/3254666); Mr Ayaz Sattar (APP/W2465/C/20/3254667); Mr Zamirkhan Kabulkhan (APP/W2465/C/20/3254668); Mr Zaheeb Ali Kabulkhan (APP/W2465/C/20/3254669); and Mr Zuhaid Zamir Kabulkhan (APP/W2465/C/20/3254670) against an enforcement notice issued by Leicester City Council.
 - The enforcement notice was issued on 18 June 2020.
 - The breach of planning control as alleged in the notice is without planning permission the unauthorised change of use to a mixed use of a residential dwelling, the repair and sales of vehicles, the dismantling of vehicles and the repair and sale of vehicle parts.
 - The requirements of the notice are:
 - Cease the use of the Property for the dismantling of vehicles and vehicle parts, the storage repair servicing and sales of vehicles and parts and vehicle recovery.
 - Remove from the Property all vehicles and parts and plant machinery and other materials associated with the unauthorised uses referred to in 5.1 above.
 - The period for compliance with the requirements is 4 weeks.
 - The appeal is proceeding on the grounds set out in section 174(2)(b) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeals are dismissed and the enforcement notice is upheld.

Reasons

2. An appeal on ground (b) is made on the basis that the matters stated in the notice have not occurred. The planning merits of the alleged use are not considered. The 5 appeals are identical and I have considered them together.
3. The appeal site is a house with a garden and garage. Vehicular access is via Milton Crescent, which runs to the rear of the property.
4. The Council has provided photographs of the site from a site inspection which took place on 28 January 2020. These show 3 cars on the site, one of which has the bonnet raised. Car parts and tools can be seen and the officers advise that tyres, wheels and other parts were at the site. While the photographs are consistent with the use alleged, they could also be consistent with cars parked and maintained in accordance with the normal domestic use of the property.

When I inspected the site there was only 1 car at the property. The site was mostly free of car parts, although there were car seats in the garden and garage and I saw that car wheels and tyres were stored in the conservatory.

5. The Council has provided copies of advertisements from a Facebook group called 'Cars Under £1000 For Sale – Leicester'. The advertisements are for complete cars or spares. The Council advises that the advertisements are on a Facebook account owned by one of the appellants, and I noticed that his name appears on nearly all the posts. The postcode given in the advertisements is 'LE4 0' which, while incomplete, is consistent with the appeal site address. Furthermore, the photographs in some of the advertisements are clearly taken at or close to the appeal site. The advertisements, from the period from 11 December 2019 to 2 June 2020, are too numerous to be consistent with occasional private sales.
6. Additionally, the Council has provided a written log, completed by a complainant, which covers a period in January 2020. The log records instances of work to vehicles being undertaken at the appeal property. An accompanying letter indicates that the work was undertaken at the rear of 30 Campion Walk, with vehicles stored at the rear of the property and elsewhere nearby.
7. The Council advises that some of the cars and parts advertised on Facebook relate to the cars referred to in the written log. In one instance it is able to identify a BMW car advertised on a Facebook advertisement by its registration number, which is the same as a registration number recorded in the written log. The images provided in the Council's statement are too indistinct for me to verify this, but it is not directly challenged and I have no reason to doubt it. Thus, there appears to be a clear link between the Facebook advertisements and the appeal property.
8. Viewed as a whole, the evidence outlined above provides a clear and consistent indication that the allegation in the enforcement notice is accurate.
9. The appellants deny that any of the matters alleged in the notice have occurred. However, the only evidence in support of this is photographs showing the site without any signs of car repairs taking place. Yet this only shows the position at the moment the photographs were taken. There is no response sufficient to cast genuine doubt on the Council's detailed evidence.
10. Looking at the evidence as a whole I conclude, on the balance of probability, that the matters alleged in the notice have occurred. Accordingly, the appeals fail.

Peter Willows

INSPECTOR