



Appeal Decision

Site visit made on 17 March 2022

by Thomas Shields MA DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 May 2022

Appeal Ref: APP/Y5420/C/21/3286295

Unit 4, West Mews, West Road, London N17 0QT

- 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 Act").
- The appeal is made by Mr Daniel Jethwa (Redcorn) against an enforcement notice issued by the Council of the London Borough of Haringey.
- The enforcement notice was issued on 30 September 2021.
- The breach of planning control alleged in the notice is without planning permission, the material change of use of the land to motor vehicle parking, vehicle repairs, storage of motor vehicle parts, siting of a caravan and shipping container and erection of a shed.
- The requirements of the enforcement notice are:
 - 1) Cease the use of the land for parking motors, repairs, storage and processing vehicle parts;
 - 2) Demolish the shed;
 - 3) Remove the caravan and shipping container from the land;
 - 4) Remove from the land all vehicle parts stored on the land;
 - 5) Remove any resultant debris as a result of carrying out steps 1 to 4
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), and (g) of the Act. 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.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a correction and variation in the terms set out below in the Formal Decision.

Preliminary Matters and Background

1. There are drafting errors in the enforcement notice. Different to the alleged breach of planning control at Section 3 of the notice, Section 5(1) refers to "motors" rather than *motor vehicles*; to "repairs" rather than *vehicle repairs*; and to "processing" of vehicle parts, being an activity not referred to in the alleged breach.
2. These are minor errors which have not affected the appellant's understanding or ability to seek planning permission for the matters alleged at Section 3 of the notice via his ground (a) appeal. As such, no injustice would result to any party if I corrected these errors using powers available to me under section 176(1) of the Act. I will therefore do so.
3. The mixed use of the appeal site is described in the notice allegation, and as set out in the banner heading above. As a mixed use it is a *sui generis* one and does not fall within any particular Use Class. No appeal on ground (b) has been made and hence the described use is undisputed. There is also no appeal on ground (c) that the use does not constitute a breach of planning control.

Appeal on ground (a)/deemed application for planning permission

Main Issue

4. Having regard to the Council's reasons for issuing the notice, set out at Section 4 of the notice, the main issue is the effect of the development on highway safety and the operation of the industrial estate, the effect on the environment, and the character and appearance of the area.

Reasons

5. The large rectangular site comprises mainly open land separated from the highway by a tall palisade fence. A single wide access at the junction of West Mews and West Road serves the site. The industrial area within which the site is located is designated as a Strategic Industrial Location (SIL) through Policy E5 of the London Plan (2021). Policy E5 affords SILs strategic protection as they are critical to the effective functioning of London's economy, being capable of accommodating 24 hour uses which by virtue of their scale, noise, odours, dust emissions, hours of operation and/or vehicular movements would otherwise be incompatible with other land uses.
6. Pursuant to the strategic protection objective of Policy E5, Policy DM37 of the Haringey Development Management Plan (2017) (DMP) aims to restrict development within SILs to within the range of acceptable B Class uses permitted by Policy SP8 of the Haringey Local Plan (2013) (LP). The aim here is to ensure that uses outside of those in Policy SP8 do not restrict, prevent or in any way prejudice the continued operation of adjoining or nearby established employment uses.
7. The Council argue that Redcorn's operations on the appeal site have resulted in large vehicles queuing in the road, along with other parking, leading to congestion and obstruction, thereby adversely affecting the free flow of traffic on the highway and the efficient operation of other businesses within the SIL. Also, that the use has resulted in storage of parts and discharge of waste oil and other by-products onto the land resulting from the transfer and storage of end-of-life vehicles to and from the site.
8. At my visit to the appeal site I saw the land surface within the site had significant oil deposits in some areas, and I did not observe anything that conflicted with the Council's evidence in relation to highway matters. Notwithstanding the appellant's GOA comments¹, no contrary evidence has been submitted in relation to these matters. In the absence of contrary evidence to demonstrate otherwise I find these factors result in significant harm. Also, the siting of a shipping container and shed on the site are visually incongruent with the form and architectural quality of other commercial buildings nearby and in the wider SIL. Hence, there is also harm to the character and appearance of the area.
9. For these reasons I find that in respect of highway matters the current use of the site conflicts with the requirements of London Plan Policy T4 (E and F) and LP Policy SP7. It also conflicts with the requirements of DMP Policies DM23, DM27 and DM30 which, taken together, seek to ensure that new development does not result in land contamination risks that have not been properly addressed, including in relation to groundwater and human health.

¹ Appellant's Grounds of Appeal document, paragraphs 4.10, 5.2

10. In relation to the shed and shipping container further conflict arises with DMP Policy DM1 which requires all new development to achieve a high standard of design which contributes to the character and amenity of the local area.
11. In the light of all these conflicts, and the harm that arises from them, I find that the development at this particular location is not sustainable overall in supporting the functioning of London's economy, and that it compromises the integrity and effectiveness of the SIL in conflict with LP Policy SP8, DMP Policy DM37, and London Plan Policy E5.
12. I have considered whether the imposition of planning conditions would overcome the harm I have identified, but there are none that would do so.
13. The appeal on ground (a) and the deemed application for planning permission therefore fail.

Appeal on ground (g)

14. The ground of appeal is that the period of time for compliance with the enforcement notice requirements falls short of what should reasonably be allowed. The notice requires compliance within 3 months. The appellant seeks a period of 18 months.
15. The appellant refers to the degree of harm and absence of accident records. However, this does not persuade me that the period of time given to comply with the notice requirements falls short of what should reasonably be allowed.
16. While I accept that locating and securing an alternative operating site may take longer than 3 months, I consider that 18 months is highly speculative and unsupported evidentially. It would also be akin to granting a temporary planning permission, resulting in the harm I have previously identified continuing for an unacceptably long period of time. The Council also rightly point out that they have powers to extend the period of time in appropriate circumstances if the appellant encounters genuine problems.
17. On balance I consider 5 months would be more reasonable and I will vary the notice accordingly.
18. The appeal on ground (g) succeeds, limited to the extent set out above.

FORMAL DECISION

19. It is directed that the notice is corrected by deleting all of the words in Section 5(1) and their substitution with the following words: "Cease the use of the land for parking motor vehicles, vehicle repairs, and storage of vehicle parts;"
20. It is directed that the notice is varied in Section 5 by deleting the words "Three months (3) after this notice takes effect" and substituting instead the words "5 months".
21. Subject to the correction and variation the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Thomas Shields

INSPECTOR