



Appeal Decision

Site visit made on 5 July 2022

by Ms S Watson BA(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2022

Appeal Ref: APP/Y1945/C/21/3271806

Land at 232-234 St Albans Road, Watford, Herts, WD24 4AU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Watford Alignment and Tyre Centre against an enforcement notice issued by Watford Borough Council.
- The notice, numbered EN20/0019/UUSE, was issued on 25 February 2021.
- The breach of planning control as alleged in the notice is: Without planning permission, the change of use of the property from sui generis to B2 (light industrial) use.
- The requirements of the notice are to:
 1. Cease the use of the land for any commercial enterprise/B2 use.
 2. Remove from the land and the building all equipment, fixtures and fittings associated with the commercial enterprise.
 3. Remove any debris caused as a result of compliance.
- The period for compliance with the requirements is: One month.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) 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.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with variations in the terms set out below in the formal Decision.

Preliminary Matters

1. Two different plans purportedly attached to the Enforcement Notice have been before me. One included the previous showroom area but excluded the courtyard and previous workshop building at the rear. The other plan included the entirety of the site. Both parties have confirmed that the plan served with the Enforcement Notice is the plan which includes the whole of the site.
2. Based on the written evidence and from correspondence from the Council and the Appellant, I understand the unauthorised use of the building to be a car workshop comprising services including tyre fitting, wheel alignment, brakes and disc repairs, and servicing which is agreed by both parties to fall within the B2 Use Class.
3. The Council referred to "Policies" 7 and 12 of the Core Strategy on its enforcement notice but these are chapters rather than specific policies. I gave the Council an opportunity to clarify this matter and to provide relevant policies within these chapters but no further evidence was submitted.
4. The Appellant has not specifically appealed on ground (f), however, their ground (a) appeal contains matters that would be more appropriately dealt with under ground (f). I referred to these specific matters in correspondence with the parties and therefore no party is prejudiced.

The appeal on ground (a)

5. The main issues are the effect of the development upon (i) the living conditions of the occupiers of neighbouring dwellings in respect of noise, (ii) the character and appearance of the area and (iii) highway safety.

Reasons

Living Conditions

6. There are dwellings to the rear of the site on Cromer Road and Yarmouth Road. I appreciate that the building at the rear of the site has previously been used for car repairs which, if an independent use, would fall into the B2 General Industrial Use Class. The whole of the premises is currently used as a workshop and therefore more noise will be coming from it than if only the rear area were to be used. Car workshops involve the use of machinery and tools and also involve the running of engines. Before I arrived at the formal site visit I heard a significant level of noise coming from the premises at the boundary of the site with the adjacent house on Yarmouth Road. This noise is to the detriment of the living conditions of the occupiers of the nearby dwellings.
7. I therefore conclude that the use harms the living conditions of neighbours. This is contrary to paragraph 130 of the National Planning Policy Framework (the Framework) which indicates that planning decisions should ensure that developments create places with a high standard of amenity for existing and future occupiers.

Character and Appearance

8. The physical alterations to the building are not alleged as a breach of planning control on the enforcement notice and therefore planning permission is only sought for the use.
9. Nevertheless, an elevational drawing and photographs of the site show that the previous showroom had shopfront doors. The doors have been removed and an external bright orange roller shutter with a projecting box is fixed across the opening. This shutter can be described as a fixture and fitting associated with the use. As a result, the workshop is visible within the street-scene due to the open shutter whilst the premises are in use. The open shutter exposes the workshop with ramps and tyre storage inside. The open frontage is necessary during operational hours due to cars having to access the building. Therefore, the appearance of the open frontage is part and parcel of its use, even if the roller shutters are to be ignored. This open gap interrupts the pattern of shop fronts along the shopping street and the view into the industrial use is unattractive and detrimental to the street scene.
10. I conclude that the unauthorised use is harmful to the character and appearance of the area and conflicts with Policy UD1 of the Watford Local Plan Core Strategy 2006-31 (2013) which seeks to respect and enhance the local character of the area.

Highway Safety

11. According to the proposed Delivery and Servicing Plan, the workshop would use the existing access from St Albans Road and exit onto Yarmouth Road. This

would ensure that vehicles would not have to reverse onto or off the public highway.

12. The Appellant says that there are an average of 12 customers per day which means that the existing pavement crossing would be used 12 times on average each day to enter the site. The number of trips associated with the use of the car showroom would have been similar, however, it is unlikely that all customers would have had to drive into the site because, unlike in the case of a garage, customers could have parked outside, furthermore, they may have used alternative modes of transport to the site which cannot be the case for car servicing customers. Nevertheless, 12 cars using the pavement crossing is low and the Local Highway Authority has not identified cars driving into the site as being dangerous. Its concerns were reversing into the road, which is not necessary in this case. It also expressed concerns in relation to a potential widening of the pavement crossing but this is not part of the appeal.
13. I appreciate that cars behind a car turning into the site would be slowed down but this is normal road use when a car turns left or right.
14. For the reasons above, I do not consider that the use harms highway safety and I find no conflict with paragraph 111 of the Framework which advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

15. The premises had previously been used as a car showroom and motor car workshop for a number of years and there is no suggestion from either party that this use was unlawful. According to the Appellant's plans, the showroom was at the front and the workshop was at the rear on the other side of the courtyard. The Appellant says that the site is a single planning unit that was in a mixed use because the land was put to two or more activities and that it is not possible to say that one was incidental to another. However, the Council's case is that the car repair workshop was incidental or ancillary to the showroom use.
16. I have no evidence that the previous workshop operated separately to the showroom use. The appellant's comments that the site has historically allowed access through the site from St Albans Road to Yarmouth Road does not support independent uses and indicates an operational connection between the front showroom and the rear workshop. A car workshop could be used in association with a showroom, i.e., fixing up the cars before they were to go on sale.
17. Overall, I conclude that the site has not been demonstrated to have been a single planning unit with two separate uses. Therefore, there is no fallback position that would be similar to the current use of the whole of the premises as a car workshop and as I do not find that the site was two separate planning units, the plan attached to the notice cannot be altered to exclude the workshop area even if the previous use were deemed to be still lawful and neither can I issue a split decision on the ground (a) appeal.
18. In its "Reasons for Issuing the Notice", the Council say that the location is unsustainable with poor access in terms of its location. However, it has not

elaborated on this in its evidence but as I am dismissing the appeal, there is no need for me to consider this matter further.

19. I appreciate that the workshop has brought a vacant building back into use but this factor does not outweigh the harm I have found.

Conclusion on ground (a)/the deemed application for planning permission

20. Although I find no harm to highway safety, I do find harm to the character and appearance of the area and to the living conditions of nearby residents. Therefore, I conclude that permission should not be granted for the unauthorised use of the land and buildings and the appeal on ground (a) should fail.

The appeal on ground (f)

21. For the appeal to succeed on this ground, I need to be satisfied that the steps required to comply with the requirements of the notice are excessive and lesser steps could overcome the breach of planning control or, as the case may be, the injury to amenity.
22. The Appellant has not specifically appealed on ground (f) however, they say that the enforcement notice solely concerns the change of use of the unit rather than any physical alterations to the building. Therefore, in their view, whilst signage and roller shutters have been added to the building, they fall outside of the scope of the appeal.
23. Section 173(5) of the Act gives examples of works which an enforcement notice may require, and these include (a) the alteration or removal of any buildings or works. An enforcement notice may include such a requirement whether it relates to material operations or a change of use, and whether the purpose of the steps is to remedy the breach of planning control or injury to amenity. Therefore, an enforcement notice that is directed at a material change of use may require the removal of works integral to and solely for the purpose of facilitating the unauthorised use.
24. Requirement (2) is vague as it requires the removal of all equipment, fixtures and fittings associated with the commercial enterprise. There is too much room for debate over what the phrase "equipment, fixtures and fittings" would encompass.
25. Nevertheless, the sign obviously facilitates the material change of use as it is specific to that particular operation within the unit. It is also fixed to the building and therefore it is a fixture referred to under (2). The sign injures amenity as it is installed higher than the projecting box of the roller shutter and covers a large portion of the glazed gable and overlaps the gable at both ends. This is discordant with the proportions of the host building and is prominent in the high street and incongruous with the building.
26. There is also a set of ramps in the old car showroom area and there is nothing before me to indicate that these have not been installed in connection with the change of use. As this part of the building was a showroom, on the balance of probabilities, the set of ramps was installed for the current use.
27. The appellant accepts that the roller shutters at the front and back have been installed in connection with the change of use. However, were these to be

removed, the building would not be secure and this could lead to more harm to amenity as a result of anti-social behaviour, vandalism or unsightly boarding up.

28. Therefore, I will vary the requirement in Step (2) to remove the fascia sign and the ramps.
29. The Appellant argues that the premises could lawfully revert back to its sui generis use. The breach is the change of use from a sui generis use to B2. Therefore, the requirement in Step (1) should only refer to the B2 use rather than include "commercial enterprise". Therefore, I shall vary this requirement accordingly. It is not for me to determine whether the previous sui generis use has been abandoned in the context of an appeal in respect of the unauthorised B2 Use of the whole of the site.
30. Therefore, although I will vary the notice in relation to Steps (1) and (2) of the requirements, the appeal on ground (f) must fail.

Conclusion

31. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decision

32. It is directed that the enforcement notice is varied by (a) the removal of the words "commercial enterprise" in Step (1) of Section 5; and (b) deletion of the words "To remove from the land and the building all equipment, fixtures and fittings associated with the commercial enterprise" from Step (2) of Section 5 and their substitution with the words "To remove from the land and building all vehicle inspection ramps and the fascia sign on the St Alban's Road elevation". Subject to these variations the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Ms S Watson

INSPECTOR