



Appeal Decision

Site visit made on 6 March 2023

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2023

Appeal Ref: APP/A0665/C/22/3306085

Land at The Old Coal Yard/Land adjacent 2, David Street, Northwich CW8 1HE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Ian Sedgwick against an enforcement notice issued by Cheshire West and Chester Council.
- The notice was issued on 2 August 2022.
- The breach of planning control as alleged in the notice is the material change of use of land for vehicle repairs and maintenance and vehicle storage.
- The requirements of the notice are to: Cease the use of the land for vehicle repairs and maintenance and vehicle storage.
- The period for compliance with the requirement is: 3 calendar months.
- The appeal is proceeding on the grounds set out in section 174(2)(b), (c) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld.

The ground (b) appeal

1. The appeal on ground (b) is that the matters alleged in the notice (the Notice) have not occurred. The burden of proof is upon the appellant.
2. The appellant makes no argument that the matters alleged in the enforcement Notice, ie the material change of use of the land for vehicle repairs and maintenance and vehicle storage, have not occurred. Their argument made under the ground (b) appeal is in fact in support of their ground (c) appeal. Notwithstanding whether it is lawful development, it is clearly evident on site that the change of use as alleged has taken place.
3. Consequently, the ground (b) appeal fails.

The ground (c) appeal

4. The appeal on ground (c) is whether, on the balance of probabilities, the matters alleged in the notice do not constitute a breach of planning control. The burden of proof is upon the appellant.
5. The site appears to have been used for various commercial uses over the years, including a coal yard and a removal company yard. Also, prior to the appellant owning the site, they confirm that they and others used it on occasion to repair vehicles. However, there is no indication of whether this activity was on a commercial or private basis or what the frequency of this activity was.
6. The appellant argues the site has a commercial use, for which there is evidence that non-domestic rates have been paid on the site for the year 2022/23.

However, there is very little evidence to suggest what the lawful planning use of the site is. There is no evidence before me that the site benefits from planning permission for its use as vehicle repairs and maintenance and vehicle storage or that such a use would be lawful. Indeed, the appellant appears to have acknowledged this by seeking planning permission in 2019¹ for a change of use of the site from a redundant B8 unit to a B2 commercial garage premises, which was refused and subsequently dismissed on appeal².

7. Consequently, based on the evidence before me, on the balance of probabilities, the use of the site for vehicle repairs and maintenance and vehicle storage has resulted in a material change in the use of the land, which does not benefit from planning permission. As such, the matters alleged in the notice constitute a breach of planning control.

8. The ground (c) appeal therefore fails.

Other Matters

9. The appellant argues the planning merits of the development, including tidying up the site and providing a service to the local community, which is supported by numerous interested parties. However, such matters cannot be taken into consideration under a ground (b) or ground (c) appeal.

Formal Decision

10. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Alexander Walker

INSPECTOR

¹ Council Reference: 19/01282/FUL

² Appeal Reference: APP/A0665/W/21/3286000