



Appeal Decision

Site visit made on 28 May 2024

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 June 2024

Appeal Ref: APP/T5150/C/22/3311934

1 Beverley Drive, Edgware HA8 5NQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Icknox Limited against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice was issued on 19 October 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use from dwellinghouse to a mixed use as a dwellinghouse and a car sales business.
 - The requirements of the notice are: 1. Permanently cease the unauthorised use of the land for car sales. 2. Permanently remove all vehicles associated with the unauthorised use from the land/premises.
 - The period for compliance with the requirements is one 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). Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act have lapsed.
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Decision

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

Ground (c) appeal

2. The ground of appeal is that the matters alleged in the enforcement notice do not constitute a breach of planning control. The onus is on the appellant to show why their appeal on this ground should succeed, the relevant test of the evidence being on the balance of probability.
3. The appeal property contains a detached dwelling. In front of the dwelling is an extensive area of forecourt, laid to hard surface. The notice alleges a material change of use from a dwelling to a mixed use including a car sales business.
4. In the Act at s55(1) the meaning of 'development' includes the making of any material change in the use of any buildings or other land. At s57(1), the Act provides that planning permission is required for the carrying out of any development of land. The definition of a breach of planning control in s171A(1) of the Act includes carrying out development without the required planning permission.
5. The revised Planning Practice Guidance (PPG) chapter '*When is permission required?*' advises that planning permission will not normally be required to work or run a business from home, provided that home working or a business use is incidental to the use as a dwelling. The PPG goes on to advise that when

determining whether a material change of use has occurred, or will occur, consideration should be given to whether home working or a business has led, or will lead, to a notable change in the character of the property's use. Environmental impacts may be used to indicate a notable change of character of the property, for example: increase in traffic and parking, disturbance to neighbours caused by regular or the number or timing of, visitors or deliveries, or abnormal noise or smells¹.

6. When I visited, there were six cars parked on the forecourt. Similar numbers of cars have been present at the property on the occasions of visits by the Council. It is possible that not all of the vehicles present during the above visits were for sale. Even so, extracts from the appellant's business website supplied indicated that as many as between ten and twelve cars have been offered for sale by the business at times. Also, I cannot discount the possibility that some of the cars parked at the roadside close to the property are associated with the business. Therefore, it is not unreasonable to assume that the number of cars I observed at the property fairly reflects the scale of the use for car sales. There was no firm evidence to suggest that significantly fewer number of vehicles had been for sale at the property.
7. The likely number of cars being offered for sale calls into question the accuracy of the appellant's estimated maximum of two or three customer visits to the property per week associated with the business. Although such visits may well be strictly by prior arrangement, it is entirely possible that a number of customers might be interested in the same or several different cars for sale around similar times, resulting in successive comings and goings.
8. It is highly likely too that some customers will make repeat visits to the property, for example to view cars, undertake a test drive, finalise paperwork or to collect their purchase. There will also be comings and goings to the property associated with the delivery of cars for sale. Additionally, as the appellant's address is on the business website, it is entirely possible that prospective customers will make speculative visits to the property on occasions. These factors are all suggestive of a significant increase in the number of comings and goings to the property due to the presence of the business.
9. The property occupies a suburban, predominantly residential setting. During my visit, I observed that although this and the surrounding streets might be busier at other times, levels of passing vehicular and pedestrian traffic in the vicinity of the property were relatively light. Therefore, a significant increase in the number and frequency of comings and goings arising from the business is likely to have led to a noticeable increase in general noise and disturbance in and around the property. This would seem to be borne out by third party complaints, apparently received by the Council, concerning extra comings and goings to the property associated with the business.
10. Besides, since the appellant confirmed that they and their spouse are in full-time employment, it is highly likely that the majority of customer visits to the property take place during evenings and at weekends, when increased incidences of noise and disturbance would be more apparent to neighbouring residents. There was little to indicate that the business did not operate at such times.

¹ Paragraph: 014 Reference ID: 13-014-20230726

11. Although no advertisements are displayed at the property, the presence of the business has led to the forecourt being almost entirely occupied by cars for long periods. The accumulation of cars on the forecourt associated with the business is noticeably different in appearance to the more open frontages, with parking space for around two cars, of most residential property in the surrounding area. This has given rise to a more urbanised feel at the property which is uncharacteristic of its suburban and largely residential surroundings.
12. Consequently, as a matter of fact and degree, given the likely associated increase in noise and disturbance as well as its visual impact, the business has resulted in a material change in the character of the use of the property. The scale and magnitude of the business is such that it is not incidental or ancillary to the primary use as a dwelling but is itself a primary use. It follows that there has been a material change in the use of the property, involving development as meant by s55(1) above.
13. Reference was made by the appellant to guidance on the Planning Portal which concerns working from home. However, such guidance makes clear that it is an introductory guide and not a definitive source of legal information. In any event, the likely marked rise in traffic and people calling, activity unusual in a residential area and disturbance to neighbours at unreasonable hours are all factors which point firmly towards the business as having given rise to a material change of use.
14. Therefore, on the balance of probability the appellant has been unable to show that the matters alleged in the notice do not constitute a breach of planning control, the available evidence showing otherwise. The ground (c) appeal fails.

Conclusion

15. For the reasons given above I consider that the appeal should be dismissed.

Stephen Hawkins

INSPECTOR