



Appeal Decisions

Site visit made on 18 July 2024

by D Hartley BA (Hons), MTP, MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th July 2024

Appeal A Ref: APP/W4705/C/24/3343316

Land at 480 Allerton Road, Bradford, BD15 7DY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Amanat Ali against an enforcement notice issued by City of Bradford Metropolitan District Council.
 - The notice was issued on 19 March 2024.
 - The breach of planning control as alleged in the notice is the unauthorised use as a commercial garage for the repair and servicing of motor vehicles.
 - The requirements of the notice are to cease the unauthorised use as a commercial garage for the repair and servicing of motor vehicles.
 - The period for compliance with the requirement is three calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 (as amended) (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.
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Appeal B Ref: APP/W4705/W/24/3342560

480 Allerton Road, Bradford, BD15 7DY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Amanat Ali against the decision of City of Bradford Metropolitan District Council.
 - The application reference is 23/03717/FUL.
 - The development proposed is change of use to vehicle repair shop and workshop garage.
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Decisions

Appeal A Ref: APP/W4705/C/24/3343316

1. It is directed that the enforcement notice is corrected by deleting the words *"The unauthorised use as commercial garage for the repair and servicing of motor vehicles"* in section 3 and their substitution with the words *"The unauthorised material change of use of the land as a commercial garage for the repair and servicing of motor vehicles"*; and varied by deleting the words *"Cease the unauthorised use of the land as a commercial garage for the repair and servicing of motor vehicles"* in section 5 and their substitution with *"Cease the unauthorised material change of use of the land as a commercial garage for the repair and servicing of motor vehicles"*. 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 1990 Act as amended.

Appeal B Ref: APP/W4705/W/24/3342560

2. The appeal is dismissed.

Procedural Matter

3. The appellant confirmed on 24 June 2024 that the appeal made on ground (d) of section 174(2) of the Act was withdrawn.

The Notice

4. While the evidence appears to indicate that the appeal site falls within land in the same ownership of No. 480 Allerton Road, i.e., a primary use as a dwellinghouse, it is nevertheless being used as a physically and functionally separate use to the unauthorised development. Indeed, the appeal building has its own access and car parking forecourt off Allerton Road and is being occupied by a tenant who is running 'Hilltop Autos' as a commercial garage for the repair and servicing of motor vehicles. In my judgement, and based on the evidence that is before me, the land falling within the red edged site on the plan attached to the enforcement notice is a primary use falling within its own separate planning unit.
5. The notice alleges an unauthorised 'use' as a commercial garage for the repair and servicing of motor vehicles. The appellant does not dispute that the use is development requiring planning permission. Indeed, a ground (c) appeal has not been lodged. Nonetheless, in the interests of precision, and, given section 55(1) of the Act which defines development, it is necessary that the allegation is corrected so that it refers to the unauthorised '*material change of use of the land*' as a commercial garage for the repair and servicing of motor vehicles. I shall accordingly correct the breach of planning control and, in doing so, no injustice would be caused to any of the main parties. In turn, I shall also vary the requirement of the notice so that it reads '*cease the unauthorised material change of use of the land as a commercial garage for the repair and servicing of motor vehicles*'.

Ground (a) appeal and the deemed planning application and the section 78 planning appeal

6. Appeal A is made on ground (a) of section 174(2) of the Act which is that planning permission ought to be granted in respect of the breach of planning control alleged in the enforcement notice. Appeal B is made under section 78 of the Act. The Appeal A and B developments are similar. Therefore, the main issues for consideration are (i) the effect of the development on highway and pedestrian safety, (ii) the effect of the use on the living conditions of the occupiers of surrounding residential properties in respect of noise and disturbance, and (iii) whether the submitted plans (appeal B) are sufficiently detailed.

Highway/pedestrian safety

7. Based on the evidence that is before me, I find that the appeal building could accommodate about two vehicles for repair or servicing purposes. Within the red edged site (Appeals A and B), there is also space to park two vehicles within the forecourt fronting Allerton Road. In respect of Appeal B, the appellant states that '*only the business owner would be on site at any time and*

there are no other employees'. Within the vicinity of the appeal site, Allerton Road is not restricted from a car parking point of view.

8. In this case, I find that the repair and servicing of vehicles falls within class B2 of the Town and Country Planning (Use Classes) Order 1987 (as amended). In this case, the evidence indicates that the repair and maintenance of vehicles amounts to an industrial process. Moreover, it has the potential to cause noise nuisance in what is predominantly a residential area. Hence, I do not find that it could reasonably be said to be a class B1 use. It is noteworthy that the appellant has provided a list of 'machinery' used in connection with the repair and servicing of vehicles including a welder, drills, bench grinder, four post vehicle lift, strong arm press and an air compressor. There are also various tools shown in the photographs that accompany the appeals.
9. Policy TR2 of the Council's Core Strategy Development Plan Document 2017 (CS) states that developments will be assessed against indicative parking standards in appendix 4. The evidence is that the appeal building is about 80 square metres. Therefore, the appendix 4 car parking standard applicable to B2 use class development is not relevant in this case as it relates to developments '*above 2500 square metres*'.
10. The Council states that the relevant car parking standard is that relating to '*workshops which is 1 space per 2 staff and 3 spaces per service bay*'. If I were to apply the workshop category to the unauthorised development, there would be insufficient on-site car parking. In respect of a B2 category, the car parking standards are silent in terms of a building measuring about 80 square metres. In my judgement, I find that it is likely that there would, on some occasions, be a need for some vehicles to be parked on Allerton Road. This is likely to be the case when car repairs or servicing have been completed and when vehicles need to be parked off the site so that work can commence on other vehicles. In addition, it is likely that some customers would need to share a lift with another driver to collect their vehicle once work has been completed on it. The latter would likely necessitate some short-term car parking on the main road.
11. Furthermore, it is very unlikely that the owner of the business would seek to park his or her vehicle on the forecourt. Instead, such a vehicle would likely be parked on the road owing to the need for the forecourt and building to be used for repairing/servicing customer vehicles and the need to manoeuvre vehicles on and within the site depending on the stage of servicing/repair and/or delivery or collection.
12. In my judgement, the relatively small size of the building would to some extent limit the amount of car parking that would be needed in association with running the business. Even if I were to apply the workshop car parking standard category in appendix 4 of the CS, and hence conflict arises with it, I do not find that the likely scale of car parking on Allerton Road would be such that material harm would be caused from a car parking demand or traffic flow point of view. Indeed, and, while my site visit was only a snapshot in time, I was able to observe that there was some spare capacity for on-street car parking on Allerton Road.
13. Notwithstanding the above, I do agree with the Highway Authority that in order to ensure the free flow of traffic on Allerton Road it is likely that those parking on this highway may do so on the pavement. Indeed, I noticed on my site visit that all the vehicles parked on the opposite side of Allerton Road to the appeal

site were parked on the pavement. Therefore, the development has the potential to cause difficulties for users of the pavement, particularly those with a visual impairment or those with pushchairs or in wheelchairs, and hence some may be unsafely forced into the road.

14. While the Council has alluded to some on-street car parking pressures in the area, this claim is not supported by any objective evidence. If this were to relate to car parking demand pressures in the evening, this would not be material to the consideration of the planning merits of this appeal as the appellant has indicated that the business would/does close at 17.00 hours and then opens at 09.00 hours the following day (with no opening on a Sunday or bank holidays).
15. The site which is the subject of the appeals does not include on-site turning facilities. Despite the size of the building, there is potential for a regular turnover of vehicles being serviced and repaired from the site. Consequently, this would give rise to the need for vehicles to either reverse into or out of the site onto Allerton Road. Given the position of boundary walls, sightlines are poor when reversing out of the site. I therefore find that there would be potential for unacceptable conflicts between vehicles and pedestrians.
16. Furthermore, reversing out of or into the site would unacceptably interrupt the flow of traffic in Allerton Road. In addition, given the likely need for some vehicles to be parked on the road in association with the business, I consider that there is potential for likely conflict between reversing and oncoming vehicles in a road where on-street car parking can impair the view of drivers. Overall, and, in the absence of on-site vehicular turning facilities, I find that there is potential for accidents to occur.
17. In reaching the above judgement, I acknowledge that there are existing driveways and accesses in the area which require vehicular reversing manoeuvres from or into sites. However, most of the accesses and driveways serve residential properties and hence are unlikely to be used in the same intensive way as the development which is the subject of the appeals. In any event, the existence of existing driveways and accesses, where reversing manoeuvres already take place, do not in themselves justify allowing the unauthorised development to continue given the harm that I have identified.
18. The appellant has submitted an 'alternative' car parking scheme if I was to find use of the existing access and on-site car parking arrangements to be unacceptable in planning terms. The alternative car parking area would be provided within part of the outside amenity space of No. 480 Allerton Road and to the west of the access road which leads to this property. It is proposed on land which is outside the identified 'land' to which the notice relates (i.e., the red edged appeal site on the plan appended to the notice). Moreover, there is no evidence that this land was being used for car parking purposes, in association with the breach of planning control, when the notice was issued.
19. It is not therefore possible to consider the appellant's alternative car parking scheme in respect of the deemed planning application. This is because section 177(1) of the Act requires that any alternative scheme must be in whole or part of the matters which constitute the breach of planning control, or in relation to the whole or in any part of the land to which the notice relates. The alternative car parking area is not in whole or in any part of the matters which

constitute the breach of planning control. Moreover, it is not in whole or in any part of the land to which the notice relates.

20. For the above reasons, while the unauthorised development is acceptable in terms of the availability of space to park vehicles, I find that owing to the likely intensity of the use and turnover of vehicles to be serviced, repaired and parked, and the lack of on-site vehicular turning facilities, the development causes unacceptable harm to highway and pedestrian safety and has the potential to severely interrupt the flow of traffic on Allerton Road. In reaching this conclusion, I am cognisant that Allerton Road is restricted to 30 miles per hour, but this is not sufficient to alter or outweigh the concerns that I have identified. Consequently, I conclude that the appeal A development does not accord with the highway safety and traffic management requirements of policies DS4 and DS5 of the CS, and paragraph 115 of the National Planning Policy Framework 2023 (the Framework). This is a matter to which I afford significant adverse weight in decision making terms.
21. Notwithstanding the above, the appeal B proposal includes a blue edged line (i.e., land also in the same ownership as the appeal site) which encompasses land to which the alternative car parking scheme relates. It is possible to impose planning conditions relating to blue edged land. However, the provision of new car parking within the blue edged land represents a fundamentally different planning application proposal. Neither the public nor relevant consultees (e.g., Highway Authority or Environmental Health) have been consulted on the alternative plan.
22. I find that determining the planning application based on the alternative plan would deprive those who were entitled to be consulted on the application of the opportunity to make any representations that, given the nature and extent of the changes proposed, they may have wanted to make on the application as amended. Indeed, the provision of new car parking spaces associated with an adjacent commercial use and close to No. 480 Allerton Road could have implications for existing and future occupiers of this residential property from a noise and disturbance point of view.
23. I have therefore decided that I cannot accept the alternative plan for the purposes of determining the planning application which is the subject of appeal B. Even if I had been able to fairly accept and consider the alternative plan, it is noteworthy that there is no evidence to indicate that the provision of the additional car parking spaces would mean that vehicles did not still have to reverse into or out of the frontage car park area associated with the appeal building. In other words, the evidence does not persuade me that the additional car parking would overcome my findings in respect of the pedestrian and highway safety concerns relating to use of the appeal building as a vehicle repair shop and workshop garage.
24. In respect of appeal B, I therefore conclude that owing to the intensity of the use, the likely turnover of vehicles to be serviced, repaired, and parked, and the lack of on-site vehicular turning facilities, the development causes unacceptable harm to highway and pedestrian safety and has the potential to severely interrupt the flow of traffic on Allerton Road. In reaching this conclusion, I am cognisant that Allerton Road is restricted to 30 miles per hour, but this is not sufficient to alter or outweigh the concerns that I have identified. Consequently, I conclude that the appeal B development does not accord with

the highway safety and traffic management requirements of policies DS4 and DS5 of the CS, and paragraph 115 of the National Planning Policy Framework 2023 (the Framework). This is a matter to which I afford significant adverse weight in decision making terms.

Living conditions

25. The appeal building is close to several residential properties including associated outside amenity areas. In respect of appeal B, the plans show the removal of a door and its replacement with a window on the elevation facing the outside amenity space and driveway associated with No. 480 Allerton Road. This would minimise disturbance from any pedestrian comings and goings associated with use of the appeal building for the repair and servicing of vehicles and could be controlled by means of the imposition of a condition.
26. Notwithstanding the above, there is scope for the unauthorised use to cause some noise and disturbance to neighbouring residents arising from the use of machinery, revving of car engines and general comings and goings of vehicles and pedestrians. I acknowledge that it would be possible to control the opening hours of the development so that the use is restricted to more sociable hours between 09.00 hours and 17.00 hours Monday to Saturday and excluding Sundays and bank holidays.
27. Nonetheless, given the close relationship with some dwellinghouses including Nos 472, 474, 476 and 480 Allerton Road, there is potential for noise disturbance arising from the use of machinery, tools, and the air compression unit in respect of either the quiet enjoyment of outside amenity areas or in respect of use of the properties themselves. It is noteworthy that there are ground and first floor windows at Nos. 472 to 476 Allerton Road which directly face the appeal building and at a very close distance.
28. In the absence of a noise survey and assessment which considers background noise levels and the activities that are or could be undertaken in association with use of the appeal site as a car repair and servicing garage, I cannot conclude that the development would not cause harm to the living conditions of the occupiers of immediately surrounding residential properties in respect of noise levels, including the character of any noise generated. Any such noise assessment would need to consider the acoustic fabric of the appeal building itself as well as existing background noise levels.
29. In the absence of a noise survey and assessment, I am concerned that the development may cause harm to the peaceful enjoyment of surrounding residential properties, whether that be in terms of use of outside amenity space or in respect of the dwellinghouses themselves, particularly in the summer months when residents may want to have their windows open. Indeed, this was evident on my site in so far that the first-floor windows were open at No. 474 Allerton Road.
30. The appellant states that he would keep the doors and windows closed when noisy activity was occurring. I have my doubts about whether a condition requiring doors and windows to be closed during so called noisy activity would be enforceable. I also question whether this would be practical from a ventilation point of view, particular during the summer months when the building may get hot. In any event, it remains possible that the level and character of the noise associated with the unauthorised development would be

such that it could be heard even if windows and doors to the appeal building were closed. In this case, the appellant has not submitted sufficient evidence to demonstrate that the development would not cause unacceptable harm in noise and disturbance terms. In the absence of a noise survey and assessment (including possible mitigation measures), I do not find that the imposition of a condition which simply controls the hours of use of the building would be sufficient to provide certainty that harm would not be caused to the living conditions of the occupiers of surrounding residential properties.

31. In reaching the above finding, I note that there are a limited number of other commercial properties in the area (e.g., public house, take-away and snack shop). However, the existence of other commercial uses elsewhere in Allerton Road does not obviate the need for the appellant to have submitted a noise survey and assessment. Furthermore, and while my site visit was only a snapshot in time, I did not notice the use of machinery or tools in respect of the identified commercial uses in the area. I recognise that the appeal building and No. 480 Allerton Road are in the same ownership. However, that may not always be the case and, in any event, paragraph 135(f) of the Framework states that decisions should ensure that developments have a high standard of amenity for existing and future users.
32. For the reasons outlined above, I am unable to conclude that the unauthorised development accords with the amenity and place requirements of policies DS1, DS5 and EN8 of the CS and paragraph 180(e) of the Framework from a noise and disturbance point of view. This is a matter to which I afford significant adverse weight in terms of my consideration of appeals A and B.

Submitted plans (appeal B)

33. The Council allege that the planning application provides insufficient information regarding existing plans and elevations and a site plan splitting the boundaries for both the existing residential and proposed use. It states that it cannot undertake a full assessment of the impact of the development on surrounding areas.
34. The submitted plans identify, with reference to a red edge, the planning application site. It is clear from the plans that the appellant owns adjacent land at No. 480 Allerton Road as it is marked with a blue edge on the submitted site plans. In this respect, I am satisfied that the plans clearly show the extent of the development which is the subject of the planning application (i.e., change of use to vehicle repair shop and workshop garage) and the residential land associated with No. 480 Allerton Road.
35. The evidence, including the appellants accompanying planning statement, makes it clear that the development which is the subject of appeal B relates to the building and its forecourt immediately off Allerton Road and no other part of the land at No. 480 Allerton Road. Furthermore, both existing and proposed elevation plans are submitted and it is clear that the only change proposed for the building relates to the removal of a side door and its replacement with a window. Contrary to the views expressed by the Council, a new door to the side of the existing roller shutter door is not proposed. The plans show that this door already exists and indeed this is shown in the photograph in the appellant's planning statement.

36. Given the above, I conclude that that the appellant did submit sufficient information to enable the Council to fully assess the impacts of the development.

Other material considerations

37. I do not doubt that the provision of a car repair and servicing garage makes a positive contribution in economic terms, both in terms of employing someone to work within the business and from the point of view of purchasing vehicle liquids and parts elsewhere.
38. I also accept that the provision of a garage is likely to be convenient for those that live in the local area and, in turn, would have some environmental sustainability benefits owing to some customers not having to travel further afield to service or repair their vehicle.
39. I weigh these positive material considerations in the planning balance below.

Planning balance and conclusion

40. I am satisfied that in respect of appeal B, the appellant's plans were sufficiently accurate to enable an assessment of the proposed development. Nonetheless, in respect of appeals A and B, I have concluded that if the development were allowed to continue it would result in unacceptable harm being caused to highway and pedestrian safety and the free flow of traffic on Allerton Road. Furthermore, in the absence of a noise survey and assessment, I am unable to conclude that the unauthorised development does not/would not cause harm to the living conditions of existing and future occupiers of surrounding residential properties in noise and disturbance terms. The latter considerations are matters to which I afford significant adverse weight in the planning balance.
41. Weighed against the collective harm above are the identified other considerations. Overall, and, on balance, I conclude that the appeal A and B developments would not/do not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, the ground (a) appeal fails, and the appeal made under section 78 of the Act should be dismissed.

Ground (f) appeal

42. An appeal made on ground (f) is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control or to remedy any injury to amenity which has been caused by any such a breach.
43. The purpose of the notice is to remedy the breach of planning control. The appellant makes the claim that the step is excessive as the submitted 'alternative' car parking scheme would overcome any planning concerns. This is a matter that I have addressed as part of the consideration of the deemed planning application (appeal A) as well as the appeal made under section 78 of the Act (appeal B). I have concluded that the so-called alternative car parking scheme would not accord with section 177(1) of the Act for the purposes of considering the deemed planning application (appeal A), and that it would be procedurally unfair to accept it for the purposes of considering the appeal made under section 78 of the Act (appeal B). In any event, the additional car parking

would not sufficiently overcome or alter all my concerns identified in respect of my conclusions on the main issues.

44. Given the above, I do not find that the step in the notice is excessive. It is necessary to remedy the breach of planning control. Therefore, I conclude that the ground (f) appeal fails.

Ground (g) appeal

45. An appeal made on ground (g) is that the period specified in the notice in accordance with section 173(9) of the Act falls short of what should reasonably be allowed.
46. The compliance period in the notice is three calendar months. The appellant claims that six calendar months should be reasonably allowed. This is based on the tenant that is occupying the appeal site needing more time to find alternative premises. I have not been provided with a copy of any tenancy agreement. Even if there was a signed tenancy agreement in place, in the absence of the submission of any such agreement I do not know if there are any break clauses and/or if the landlord could end the tenancy early.
47. While I do not doubt that upholding the notice would mean that the appellant had to find alternative premises to continue his business, I am not persuaded that it would not be possible to find and secure alternative premises in three months. I accept that six months gives the appellant more time, but the point is that it is necessary to bring the unauthorised use to an end given the identified planning harm and, on the evidence that is before me, I do not therefore find that a period of three months is an unreasonable compliance period.
48. I therefore conclude that the ground (g) appeal fails.

Conclusions

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

Appeal B Ref: APP/W4705/W/24/3342560

50. For the reasons given above, the appeal should be dismissed.

D Hartley

INSPECTOR