



Appeal Decision

Inquiry held on 10 and 11 September 2024

Site visit made on 11 September 2024

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2024

Appeal Ref: APP/W1905/X/24/3342466

Brackendale, St James Road, Goffs Oak, Hertfordshire, EN7 6TR

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Angelo Bellini against the decision of Broxbourne Borough Council.
 - The application ref 07/24/0020/LDC, dated 4 January 2024, was refused by notice dated 5 March 2024.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is Classic Car Restoration falling within Use Class B2.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Angelo Bellini against Broxbourne Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. At the Inquiry, evidence was presented in respect of this appeal and another appeal (APP/W1905/X/24/3342448) on another location within the wider site. While I heard from witnesses about both appeals during the Inquiry, I have dealt with each in a separate decision in the interests of clarity.
4. The applicant details on the application form mistakenly include the name of the company of the agent acting on behalf of the applicant. I have excluded this from the banner heading above.
5. At the Inquiry I asked the advocates to address in closing submissions the matter of the planning unit that I should be concerned with when considering this appeal. I am satisfied from my observations of the site and the building that the workshop itself is a discrete and self-contained area of operation, unrelated to the use of the wider site and as such comprises a single planning unit and I have considered the appeal on this basis.

Main Issue

6. The main issue in this case is whether the decision of the Council to refuse the certificate was well-founded. This will turn on whether the appellant has proved on the balance of probability that the site has been used for Classic Car

Restoration falling within Use Class B2, for a continuous period of ten years prior to the date of the application being made, i.e., since 4 January 2014 (the “relevant date”), and that the use continued for 10 years after the date of change without having been abandoned or otherwise lost.

Reasons

7. The appeal site comprises a single storey building, located within a wider site that comprises of a number of uses. At the time of my visit, I was able to inspect the interior of the building and saw that it contained numerous vehicles in various states of repair, as well as a multitude of car parts and other paraphernalia.

The use of the site

8. The appellant contends that the site has been used for the purposes of restoring classic cars for a period in excess of 10 years and that this use falls within Use Class B2.
9. The Town and Country Planning (Use Classes) Order 1987 (as amended) (the UCO), provides, where relevant:

Class B2.

Use for the carrying on of an industrial process other than one falling within class B1 above.

10. Use Class B1, also refers to the carrying out of an industrial process, but one that can be carried out in a residential area, without detriment to the amenity of that area. The Appellant does not contend that this is the case and I find no reason to find differently. I therefore shall confine my consideration to Use Class B2.
11. The UCO further states that:

“industrial process” means a process for or incidental to any of the following purposes: —

 - (a) the making of any article or part of any article (including a ship or vessel, or a film, video or sound recording);*
 - (b) the altering, repairing, maintaining, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article; or*
 - (c) the getting, dressing or treatment of minerals;*

in the course of any trade or business other than agriculture, and other than a use carried out in or adjacent to a mine or quarry.
12. The appellant sets out that his tenant has operated a classic car restoration business from the site for over 30 years. The tenant is a family friend and has not paid rent at a market rate, only a small sum toward site maintenance.

13. The tenant, Mr Martin Keane, set out in his written evidence that he has operated his classic car restoration from the site since 1993, that he buys and restores the cars himself, often working on the same vehicles for months at a time. Various photographs have been provided which show vehicles parked in and around the site. Within Mr Keane's Proof of Evidence, at paragraph 2.7 it states that he operated a business from the site. However, during cross-examination it was accepted that this was an error and that a business is not operated from the site. Mr Keane also stated that the use of the site is for the purposes of his own hobby. In this light, given the absence of any trade or business, the use of the site can not comprise an industrial activity and thus also can not fall within Use Class B2.
14. Turning to the actual use for classic car restoration, Mr Keane's evidence was that only minor work is undertaken to any of the vehicles at the site, by himself. Anything beyond this minor work, which could involve re-spraying or bodyworks, would necessitate taking the vehicle offsite to another facility. Mr Keane accepted that there is currently no vehicle being actively restored, it could be months when nothing is taking place at the premises, as well as that he has never fully restored a vehicle there. Mr Keane stated that he may only spend a couple of days in any month at the site and that he may undertake some works at other locations. When asked under cross-examination what he considered the use to be, he stated it was as a garage or hobby use.
15. Mr Keane also said in response to my questions that there are lots of materials stored at the site, and I was able to see at the time of my visit that this was extensive. He stated that he keeps parts from old cars for possible use in the future. There are also other materials stored within the buildings, such as bits of wood. In this respect, Mr Keane indicated that the building was "like a shed," used for storage and "like a junk yard." It was also accepted that cars are taken to the site with the potential to do work to them, but that there was also an element of storage taking place.
16. When considering the totality of the evidence, it shows that any restoration of classic cars has taken place on a very limited basis, and it has taken place in association with other uses, that have included storage and hobby use. Within the context of this appeal, it is not necessary for me to determine the actual use that is taking place, it is sufficient that I can conclude that the use sought in the application is not lawful.
17. Therefore, when considering the information submitted, the appellant has not demonstrated that, on the balance of probability, the building has been used for classic car restoration falling within Use Class B2 for a period in excess of 10 years, and the appeal must fail.

Conclusion

18. For the reasons given above I conclude that the Council's refusal to grant an LDC in respect of Classic Car Restoration falling within Use Class B2 was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

Martin Allen

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Simon Bell

Counsel for the Appellant

He called

Angelo Bellini
Giuseppe Abello
Martin Keane
Tony Bellini
Anthony Bellini

Appellant
Tenant of appellant
Tenant of appellant
Brother of appellant
Son of appellant

FOR THE LOCAL PLANNING AUTHORITY:

Christian Hawley

Counsel for the LPA

He called

Liam McLoughlin

Planning Officer