



Appeal Decision

Site visit made on 25 February 2025

by **A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC**

an Inspector appointed by the Secretary of State

Decision date: 14 March 2025

Appeal Ref: APP/U4610/X/24/3341960

1 Oak Cottages Oak Lane, COVENTRY, CV5 9DA

- 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 Mark Pinfield against the decision of Coventry City Council.
 - The application ref PL/2024/0000119/LDCE, dated 18 January 2024, was refused by notice dated 12 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 a mixed use comprising residential and the commercial parking/storage and sale of motor vehicles (*sui generis*).
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is found to be lawful.

Main Issue

2. The main issue is whether the Council's decision was well-founded. That will turn on whether the appellant has proved on the balance of probability that the use of the property changed to use for a mixed use comprising residential and the commercial parking/storage and sale of motor vehicles (*sui generis*) on or before 18 January 2014 and that the use then continued without significant interruption for 10 years after the date of the change.

Reasons

3. In an appeal relating to a LDC the onus of proving the relevant facts rests with the appellant, and the standard of evidence is the balance of probabilities. The appellant's own evidence does not need to be corroborated with independent evidence, and if there is no evidence to contradict or otherwise make the appellant's version of events less than probable, the appellant's evidence alone may be sufficient to justify the grant of a certificate provided that it is sufficiently precise and unambiguous.
4. In support of his appeal the appellant has submitted a wide range of documentation which includes the following:
 - Site Plan reference TQRQM23279094319643
 - Aerial photographs of the appeal site;
 - Letter from Bubbles Hand Carwash dated 26 September 2023

- Statutory declaration by M Pinfield dated 11 January 2024
 - Statutory declaration by D Walker dated 16 January 2024
 - Statutory declaration of G Gudger dated 13 January 2024
 - Statutory declaration of R French dated 12 January 2024
 - Statutory declaration of M Went dated 12 January 2024
 - Insurance letter from AKR Insurance Services Ltd dated 30 January 2023
 - AXA Client Details and General Information
 - Email correspondence from Autotrader Retailer Support dated 16 March 2023
 - Autotrader Archive of Sales Vehicles October 2013 to August 2023
 - Photographs of vehicles on site between April 2009 and 2010 and October 2023
 - Showroom Shine Accounts year ended 31 March 2013 to year ended 31 March 2022
 - Swale BC v FSS & Lee [2005] EWCA Civ 1568; [2006] JPL 886
 - Thurrock BC v SSETR & Holding [2002] EWCA Civ 226
 - Coventry City Council decision notice for LDC application PL/2024/0000119/LDCE dated 12 March 2024
 - Officer Report PL/2024/0000119/LDCE
5. The appellant states that he has been trading motor vehicles from the appeal site since 2005 and that the level of trading activity has grown over time. Vehicles have been stored and sold from the front driveway and lawn areas to the east and west of the driveway. The business has grown and the areas of activity extended to the hardstanding driveway and beyond the rear of the driveway.
6. In 2011 the west lawn area to the front of the house was laid to Cotswold Stone as is first shown on a series of photographs dated 17 August 2011. Over the years the photographs show that the business grew, extending the area where the cars were stored and sold from. The first photograph showing vehicles parked on the east lawn is dated 1 January 2006 and then on 1 January 2010 cars are also shown on the east lawn. However, aerial photographs do not show vehicles on the east lawn between 2010 and 2019, but clearly during that period the aerial photographs do show several vehicles parked elsewhere around the site, including the driveway, rear garden and west lawn. In addition, photographs show a number of specific vehicles parked around the site, including those with registration numbers VA03 XUN, R22 ARH, SY51 WFM, a red car (described by the Council as a BMW), VN52 VCU, R630 FNO and V7 CKE since 27 July 2010. Other photographs of vehicles during the material period have been submitted, confirming that different vehicles have been parked on-site at a time when multiple vehicles have been present. In my judgement the number of vehicles shown on photographs is greater than would be expected for normal domestic use.

7. Aerial photographs dating from 1 January 2006 show vehicles at the front of the property, but the Council contends that these may be the appellant's personal vehicles rather than those for commercial sale. In particular, the Council argues that there are two particular vehicles which seem to be in various aerial photographs dating back to 2007; however, that is not at all clear from the photographic evidence submitted. In my judgement the photographs are not clear or detailed enough to be able to define whether the vehicles shown are the same ones over a period of several years.
8. In particular, from 5 December 2012 onwards the number of vehicles shown on the appeal site is consistently greater than would be expected for normal domestic use and are parked on different parts of the site, including the front lawns, driveway, side of the house and to the rear of the house. I have also noted that some vehicles are parked in places where it would be difficult to manoeuvre them to exit the site. This indicates to me that they are not being used on a regular day-to-day basis, but rather that they are more than likely parked up there or stored for a sales type of scenario. I do not dispute that the number of vehicles seems to increase since the new driveway was laid as shown in aerial photographs since May 2019, but before then the number of cars shown is consistent with a car sales use.
9. The letter from Bubbles Hand Carwash is rather vague in relation to the current appeal because it merely refers to the appellant as having used the car wash and having received valeting services for over 10 years. There is no reference to the number of vehicles involved, the frequency of use or whether the cars cleaned have been for sale by the appellant.
10. The Statutory Declarations submitted are signed and dated but not witnessed and do not take the form of sworn affidavits. Consequently, they hold limited weight in this case. It is also not clear whether they have been presented to the witnesses for signature or if they have been written independently by each witness. Nevertheless, there is consistency that the occupiers of the appeal property have been running a car sales/storage business from the site since 2005.
11. The letter from AKR Insurance has not been witnessed, but nonetheless states that the appellant has held motor trade insurance at the appeal site since 2005. The letter also indicates that the cover has been continuous for the material period. The Axa certificate is consistent with the appellant's evidence in that it confirms that he has operated his car business Showroom Shine from home since 1995.
12. Correspondence and records from Autotrader Retailer Support confirms that the appellant has advertised car sales since 1 February 2013 and therefore for the entire ten year period in question, here. Furthermore, records show a total number of 547 vehicle sales from Mark Pinfield of Showroom Shine Cars between 27 October 2013 and 6 August 2023. The number of vehicles sold has fluctuated over time, but there have been sales consistently throughout this period. In more recent years there has been an increase in sales activity which corresponds with the increased numbers of vehicles on site as shown in aerial photographs, but an increase such as this does not necessarily show a particular time when intensification in the use has occurred to the degree that a material change in use can be identified.

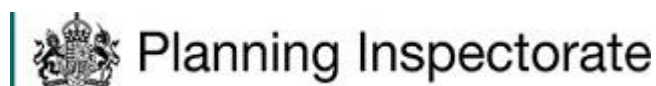
13. Showroom Shine Income and Expenditure Accounts for the years ended to 31 March 2013 to 31 March 2022 by D & S Associates confirm that they have prepared the accounts and provided Accounts Certificates, but no transactions are shown. As such this does not contribute to the body of evidence in support of the appellant's appeal.
14. Taking the full range of evidence into account and acknowledging the concerns of the Council, in my judgement the evidence is sufficiently precise and unambiguous to prove that the use of the property changed to use for a mixed use comprising residential and the commercial parking/storage and sale of motor vehicles (*sui generis*) on or before 18 January 2014 and that the use then continued without significant interruption for 10 years after the date of the change.

Conclusion

15. For the reasons given above, I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development for a mixed use comprising residential and the commercial parking/storage and sale of motor vehicles (*sui generis*) is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

A A Phillips

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 18 January 2024 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The appellant has proved on the balance of probability that the use of the property changed to use for a mixed use comprising residential and the commercial parking/storage and sale of motor vehicles (*sui generis*) on or before 18 January 2014 and that the use then continued without significant interruption for 10 years after the date of the change.

Signed

A A Phillips

INSPECTOR

Date: 14 March 2025

Reference: APP/U4610/X/24/3341960

First Schedule

A mixed use comprising residential and the commercial parking/storage and sale of motor vehicles (*sui generis*).

Second Schedule

Land at 1 Oak Cottages Oak Lane, COVENTRY CV5 9DA

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

Plan

This is the plan referred to in this decision dated: 14 March 2025

by A A Phillips

Land at: 1 Oak Cottages, Oak Lane, COVENTRY CV5 9DA

Reference: APP/U4610/X/24/3341960

Scale: Not to Scale

