



Appeal Decision

Site visit made on 17 June 2025

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 October 2025

Appeal Ref: APP/T5150/C/25/3362046

Land at 150 Coles Green Road, London NW2 7JL and land adjacent to 51 Waterloo Road, London NW2 7TS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Mostafa Al-Gobory against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice was issued on 31 January 2025.
 - The breach of planning control as alleged in the notice is, without planning permission, the material change of use of the premises to the storage of vehicles and parts, car breaking, maintenance and repairs.
 - The requirements of the notice are:
 - STEP1 Cease the use of the premises for the storage of vehicles and parts, car breaking, maintenance and repairs.
 - STEP2 Remove all vehicles, parts, machinery, buildings, structures, materials and equipment associated with the unauthorised use from the premises.
 - The period for compliance with the requirements is 3 months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(b) and (d) of the Town and Country Planning Act 1990 (as amended).
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Summary Decision: The appeal is dismissed and the enforcement notice is upheld.

Ground (b)

1. In a ground (b) appeal, the onus of proof is on the appellant to demonstrate that on the balance of probability the matters stated in the enforcement notice have not occurred. The matter alleged is a material change of use to a mixed use comprising the following elements, namely:
 - The storage of vehicles and parts;
 - Car breaking; and
 - Vehicle maintenance and repairs.
2. In making his appeal, the appellant suggests that the breach of planning control is not correct and that 'the vehicles on the land are a used car sales room'.
3. At the site visit I noted throughout the site a number of what appeared to be domestic and commercial vehicles (i.e. cars and vans) positioned on the land. These were not positioned on the land consistent with vehicle parking, such that any car on the site could be driven from the land without the need to move other vehicles. Whilst the manner in which the vehicles were positioned on the land might be consistent with a vehicle sales use, I saw no obvious evidence that the vehicles were available for sale. For example, I saw no sales stickers or pricing on any of the vehicles.

4. The Council has provided a set of photographs of the site from September and October 2024 and January 2025, which show vehicles on the site consistent with my observations. Again, there is nothing obvious in these photographs that show the vehicles on the land are for sale in a manner consistent with a vehicle sales use.
5. The Council has provided photographs of the site from December 2018. The photographs show vehicles parked on the site in a similar manner observed by me at the site visit. There are also what appear to be car sales banners displayed on the site at that time. I note, however, that these photographs were taken before the enforcement notice was issued in respect of the site, upheld at appeal¹, which relates to a use of the site for car sales. I did not observe any such advertisements displayed on the site at the time of my visit and neither are these visible in the Council's most recent series of photographs.
6. That an enforcement notice has been issued that requires the use of the site for car sales to cease does not mean that such a use could not have occurred at the time of (or prior to) the issue of the enforcement notice that is before me. Nevertheless, the evidence is not sufficient to persuade me that the vehicles I observed on site are in association with a car sales use, and that the vehicles are not on the site for the purposes of vehicle storage.
7. In addition to the above, I also observed vehicle parts, including tyres and body parts on the land in various locations across the site. These are visible in the most recent series of photographs provided by the Council. This is consistent with a vehicle parts storage use.
8. In the photographs and at the site visit there were also a number of vehicles on the site that appeared to be in a state of disrepair. Some had body parts missing and others had damage consistent with a collision. I also noted vehicle pick up trucks on the site and some in the Council's photographs. All of this is consistent with the use described in the notice as 'car breaking'.
9. Finally, during my site visit it was not obvious that vehicles are repaired and maintained on the land, although I did not have access to all parts of the appeal site. I noted the covered structures on site and in one of the Council's photographs I can see that one of these structures contained items more consistent with vehicle cleaning, rather than repair and maintenance. There are, however, vehicle oil containers visible in some of the photographs, which is an indication that some vehicle maintenance takes place on the site. Notwithstanding this, there is little from the appellant to suggest that vehicle maintenance and repair does not take place on the site.
10. Having regard to the evidence before me, and with the benefit of a site visit, I am not persuaded that the matters stated in the enforcement notice, i.e. a material change of use to a mixed use comprising the storage of vehicles and parts, car breaking, maintenance and repairs, have not occurred. The appellant has failed to discharge the burden of proof that is upon him. The appeal on ground (b) must, therefore, fail.

¹ Appeal reference APP/T5150/C/18/3218106

Ground (d)

11. An appeal on this ground is that, at the date on which the notice was issued, no enforcement action could be taken in respect of any breach of planning control that may be constituted by the matters alleged in the notice. In order to succeed on this ground, the appellant must show that the use has continued substantially uninterrupted for a period of ten years beginning with the date of the breach². The test in this regard is the balance of probability and the burden of proof is on the appellant.
12. The appellant's case on ground (d) is briefly stated and that is that 'the breaches of the land had occurred over 10 years ago' and that 'the business has been at the premises from 2013 onwards'. The appellant has, however, failed to provide any evidence to substantiate these claims, including the 'Google maps' evidence he refers to in the appeal form. The appellant's evidence is not, therefore, sufficiently precise and unambiguous. Indeed, it falls substantially short of demonstrating that the use has continued substantially uninterrupted for a period of ten years beginning with the date of the breach, on the balance of probability.
13. Notwithstanding this, as I note above, an enforcement notice was issued on 21 November 2018 in respect of a material change of use of the same site to a use for car sales. Whilst an appeal was made against this notice, the appeal was not made on ground (b), which as I note above is that the matter alleged in the notice had not occurred. Even if I was satisfied that the use of the site for the purposes alleged had commenced in 2013, as suggested by the appellant, the evidence indicates that there has been an intervening use for car sales. This indicates that, if a use of the site for the storage of vehicles and parts, car breaking, maintenance and repairs had begun in 2013, it has not continued substantially uninterrupted for a period of ten years or more since that time.
14. All things considered, the appellant has failed to demonstrate that at the time the notice was issued, no enforcement action could be taken in respect of the breach of planning control alleged. The ground (d) appeal must, therefore, fail.

Conclusion

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

Formal Decision

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

J Moss

INSPECTOR

² In accordance with section 171B (2) of The Town and Country Planning Act 1990 as amended.