Planning Inspectorate

Appeal Decision

Site visit made on 30 September 2025

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd October 2025

Appeal Ref: APP/C4615/C/24/3346799
Residential garage located at 47 Catherine Road, Coseley, Bilston, West Midlands, WV14 9AD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Karl Butler against an enforcement notice issued by Dudley Metropolitan Borough Council.
- The notice was issued on 21 May 2024.
- The breach of planning control as alleged in the notice is: Without planning permission and within the last ten years the change of use of the garage (use incidental to class C3) to a storage and collection area for auction items (use class B8) as shown on the attached site photographs.
- The requirements of the notice are to:
  5.1 Cease the use of the land (including the garage) as a storage and collection area for items sold at auction.
  5.2 Remove the perspex shop front from the front of the garage and remove all associated fixtures.
  5.3 Remove from the land lawfully all waste materials and debris arising from fulfilling the requirements set out in 5.1 and 5.2 of this notice.
- The period for compliance with the requirements is one month.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 (as amended). 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.

Summary of Decision: The enforcement notice is quashed.

The Enforcement Notice

1. The notice alleges the change of use of the residential garage to a storage and collection area for auction items. The allegation should have stated “material change of use” as this is the act of development as defined by statute. This aspect of the allegation could have been corrected without causing injustice to the parties.

2. The use of the garage for the storage and collection of auction items is connected to the appellant’s auction business. Items are auctioned online, and are stored at the property before being despatched via the post, a delivery service or collected from the property by customers. The issue of the notice followed the refusal of retrospective planning permission for a proposal described as “change of use of residential garage to storage and collections of antique items for sale” in April 2024 under application P24/0031.

3. The land to which the notice relates is shown edged red on the plan attached to the notice, and this is drawn tightly around the garage. However, the wider site also includes the appellant’s dwelling house, gardens and a driveway to the side. There are two lean-to structures attached to the main garage building, one to the side and one to the rear, with doors providing access between them and the garage. A clear plastic-type material has been fitted to the front of the garage to form a door and

window which create a shop-like appearance, but this can be concealed behind a roller shutter door.

4. At my site visit I observed that the garage is used partly for the storage of auction items and as a collection point, but it is not solely in this use as it continues to be used for purposes incidental to the dwelling, including for DIY and domestic storage. The side lean-to is also used for incidental residential purposes as a workshop and store and it does not appear to be used at all for the appellant's auction business. The rear lean-to is the main storage area for auction items.

5. Therefore, the allegation in the notice is incorrect as there is a mixed use on the site. The concept of a mixed use is two or more primary uses existing within the same planning unit or unit of occupation. One is not incidental to the other, although there may be incidental uses associated with each primary use.

6. The allegation in the notice should have referred to all the components of the mixed use even if only one is required to cease. This is because, where there is a mixed use, it is not open to the Council to decouple elements of it; the use is a single mixed use with all its component activities. In any event, there is not a single primary use for storage and collection of auction items on the appeal site. The uncertainty surrounding the alleged breach means that the steps required to be taken to remedy it, as set out at section 5 of the notice, are also unclear.

7. The plan attached to the notice identifies the site as the garage and the side lean-to only. As mentioned above, the garage is not used exclusively as a storage and collection area for auction items, and the side lean-to is not used at all for these purposes. The rear lean-to is the main storage area for auction items, yet it is not within the land edged red on the plan and therefore is not subject to the notice. For these reasons the plan is inaccurate and it does not correctly identify the planning unit.

8. It is my duty to get the notice in order if I can, and I have wide powers of correction under s176(1) of the Act, but only where I am satisfied that a correction will not cause injustice to the appellant or the Council.

9. If I were to correct the allegation, then it would widen the scope of the notice which could have implications for the parties' grounds of appeal and cause injustice. I have also considered whether the notice could be corrected by deleting the plan and substituting it with a new plan to correctly identify the land in use for the storage and collection of auction items. However, on the evidence before me, it is not clear where the precise boundaries of that use are, and it may not reflect the extent of the planning unit. Moreover, enlarging the site area could make the notice more onerous to comply with and thereby lead to injustice to the appellant. As the notice cannot be corrected without causing injustice it must be quashed.

Other Matters

10. The appellant has not appealed on ground (c). However, the contention that certain aspects of the proposal do not require planning permission represents a potential hidden ground (c) appeal, which is that the matters alleged in the notice do not constitute a breach of planning control. Given my findings above, there has been no need for me to consider this or the appeal under grounds (a) and (f) further.

Conclusion

11. For the reasons given above I conclude that the enforcement notice does not specify correctly the alleged breach of planning control.
12. It is not open to me to correct the error since injustice would be caused were I to do so. Therefore, the enforcement notice is invalid and will be quashed.
13. In these circumstances, the appeal on the grounds set out in section 174(2)(a), (c) and (f) of the 1990 Act and the application for planning permission deemed to have made under section 177(5) of the 1990 Act do not fall to be considered.

Formal Decision

14. The enforcement notice is quashed.

M Ollerenshaw

INSPECTOR