



Appeal Decisions

Site visit made on 19 November 2025

by **AJ Steen BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 February 2026

Appeal A Ref: APP/Z1510/C/25/3371036

80 London Road, Braintree, Essex CM7 2AS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Andrew Roy Smith against an enforcement notice issued by Braintree District Council.
- The notice was issued on 16 July 2025.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of land to a mixed use consisting of residential and commercial, involving the preparation, storage and display of vehicles for sale.
- The requirements of the notice are to:
 1. Cease the use of the land for commercial vehicle sales including their storage, preparation and display pending sale
 2. Remove from the land all vehicles being stored, displayed or prepared in connection with commercial vehicles sales.
- The period for compliance with the requirements is: 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(e) and (g) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with a correction and a variation in the terms set out below in the Formal decision.

Appeal B Ref: APP/Z1510/W/25/3371033

80 London Road, Braintree, Essex CM7 2AS

- 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 Andrew Roy Smith against the decision of Braintree District Council.
- The application Ref is 25/00257/FUL.
- The development proposed is the change of use of land and existing building for the storage, preparation and display of vans for sale.

Summary Decision: The appeal is dismissed.

This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 18 December 2025.

Preliminary Matters

1. During the course of the appeals, I queried the ability of the appellant to make an appeal against the issue of the enforcement notice subject of appeal A. I understand that Mr Andrew Roy Smith owns and occupies the house that is within the area of land subject to the enforcement notice. On that basis, he has an interest in the land to which the enforcement notice relates and is a relevant occupier. In accordance with section 174(1) of the Town and Country Planning Act (the Act), he does have a right of appeal and I will proceed to determine that appeal.
2. I also raised with the parties that the requirements of the notice do not require the residential use of the land to cease and, on that basis, grant planning permission

for the use under section 173(11) of the Act over the whole appeal site. For clarity, I will use my powers under section 176(1) of the Act to correct the first requirement of the notice to refer to the cessation of the mixed use. That would be clearer in establishing the position with the residential use, especially as the appellant refers to this in their case on appeal B.

Appeal A on Ground (e)

3. Section 172 of the Act requires that a copy of an enforcement notice shall be served on the owner of the land to which it relates. In this case, the Council served the notice on Mr Andrew Roy Smith but not on Andrew Roy Smith Limited that, I understand, owns the land on which the commercial use is taking place.
4. The relationship between Mr Andrew Roy Smith and Andrew Roy Smith Limited is not clear. Nevertheless, the evidence indicates that Mr Smith is closely involved with the company with which he shares his name. On that basis, the company must have been aware of the notice such that it would have been able to appeal.
5. The appellant accepts that Andrew Roy Smith Limited has not been substantially prejudiced by the failure to serve the notice correctly. Section 176(5) of the Act makes clear that I can disregard that a person has not been served the notice if neither the appellant nor that person has been substantially prejudiced by the failure to serve them.
6. For these reasons, I conclude that the appeal under ground (e) should fail.

Appeal B

Main issues

7. The main issues are:
 - the effect of the use of land and existing building for the storage, preparation and display of vans for sale on the character and appearance of the surrounding area; and
 - the effect of the development on flood risk.

Reasons

Character and appearance

8. The land and building in use for the storage, preparation and display of vans for sale is located some distance along the access road to 80 London Road. To the rear and side are mature trees forming a backdrop to the use in views from the neighbouring modern housing estate around Townrow Avenue and in views from London Road. The access drive runs between the mature trees separating the site from the neighbouring cemetery and an open area that appears as a large paddock and allows views across it from the road, neighbouring cemetery and surrounding development. As a result, the immediate character and appearance provides an open green setting to the site.
9. The building is a functional low and metal clad commercial building with a concrete forecourt and substantial gravel parking areas. The parking areas are dominated by a large number of vans. Taking account of the setting, this appears somewhat incongruous in this location, particularly as it is separated from similar

development such as the car and van hire depot at Bridge Farm on the junction of London Road with Townrow Avenue by the paddock.

10. Access to the site is along the shared gravel access to the house at 80 London Road. A significant number of vehicles are likely to be accessing the site and these movements could result in noise and disturbance in close proximity to the neighbouring cemetery. Peace and quiet are an important characteristic of this area, particularly given the proximity to the cemetery, and this is disturbed to some extent by movements along the access drive.
11. The building is acknowledged as lawful and is set within an area that, given the terms of the enforcement notice, would otherwise have consent to be used as garden for the house located to the rear. If the use were to cease in accordance with the enforcement notice, it may be replaced with that residential use and the spread of domestic paraphernalia that could result. However, that is unlikely to result in a spread of material to the extent of the van parking currently taking place on the land.
12. A screen of leylandii trees has been planted between the parking area and the access drive to the house. This will mature to screen the use to some extent, particularly from the development along Townrow Avenue. Further landscaping is suggested in an indicative landscaping scheme, comprising native tree planting in the area over the access drive from the area used for parking of vans and more close to London Road. This may, over time, screen the use to a large extent. However, it would alter the open character of the existing land and restrict the views across this area from the cemetery and surrounding development. Although the proposed planting appears to be within an area owned by the appellant, it is outside the appeal site. As such, it is unclear whether a condition requiring further details or implementation would be enforceable to ensure this landscaping is provided and maintained.
13. Whilst the tree screen, potential further landscaping and comparison to the alternative residential use would reduce the effect of the development to the character and appearance of the area, it would not overcome the incongruous appearance of the large number of parked vans in this location.
14. For these reasons, on balance I conclude that the use of land and existing building for the storage, preparation and display of vans for sale harms the character and appearance of the surrounding area. As such, it conflicts with Policies SP7, LPP1, LPP 52 and LPP 67 of the Braintree District Local Plan 2013-2033 (LP) that seek a high standard of layout and design, including responding positively to local character and context to preserve and enhance the quality of places and their environs.

Flood risk

15. Policy LPP 74 of the LP requires development within Flood Zones 2 and 3 to be supported by a site specific Flood Risk Assessment (FRA) to meet the requirements of the National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG). Paragraph 176 of the Framework states that applications for changes of use are not subject of the sequential or exception tests.
16. The appeal site is located adjacent to the River Brain. Parts of the site, comprising the rear part of the building and part of the parking area, are located within Flood

Zone 3b, where less vulnerable uses of land, such as buildings used for shops and other services, and car parks, should not be located¹. The remainder of the site is within Flood Zones 2 and 3a where this form of development does not require development to pass the exception test set out within the Framework.

17. The appeal is supported by an FRA that concludes the use of the building would not be affected by flooding. It sets out safe access and egress to and from the site in the event of a flood. If part the site were to flood, the parked vans may displace water and increase the risk of flooding elsewhere.
18. Whilst the proposed use would be inappropriate in part of the site due to the risk of flooding, the appellant has suggested the area in use could be adjusted to avoid that part of the site. This could be required by condition.
19. For these reasons, I conclude that, subject to an appropriate condition, the development would not be affected by the risk of flooding or result in additional risk of flooding elsewhere. As such, it would comply with Policy LPP 74 of the LP and the Framework.

Other matters

20. The development provides a lawful use to the existing building and its adjacent hardstanding in a reasonably accessible location close to similar uses and provides space to a business that contributes toward the economy of the area. This includes through the employment of 12 people and outsourcing of work to other local businesses. The business is established and successful, having traded for around 15 years. This carries considerable weight in support of the development.
21. I note that the appellant has investigated alternative sites, such as Springfield Industrial Estate, Rivenhall End and a site in Whittam, but these were either not available or not suitable. It is unclear when an alternative suitable site may become available. My attention has also been drawn to the Economic Land Needs Assessment (ELNA) that confirms the availability of land for this type of use is low.
22. The appellant suggests that, if I were to conclude that the development does not comply with relevant development plan policies, that a temporary consent could be granted. They suggest a period of no less than 3 years. That would protect the jobs of current employees and provide some certainty for them and the business owner. It would enable time to be provided for the business to locate, buy and gain planning permission (if necessary) on land suited to the needs of the business.
23. If I were to grant consent for the use to continue for a period, the harms I have identified would remain for that time, albeit would reduce the harm. It is unclear why a period of at least 3 years would be necessary to find alternative accommodation. I will return to this, in any event, in appeal A under ground (g).
24. The appellant has drawn my attention to the previous appeal decision on the site, reference APP/Z1510/W/24/3343474. I have taken this into account in coming to my decision. The Inspector in that case did not find harm to the living conditions of occupiers of neighbouring properties or ground conditions and that, subject to conditions, a satisfactory access could be achieved. I see no reason to disagree with their conclusions in this regard.

¹ PPG Paragraph: 079 Reference ID: 7-079-20220825

Conclusion

25. I have concluded that the use of land and existing building for the storage, preparation and display of vans for sale harms the character and appearance of the surrounding area such that it conflicts with Policies SP7, LPP1, LPP 52 and LPP 67 of the LP. Whilst it does not conflict with other policies of the LP, that is sufficient to conclude that it conflicts with the development plan as a whole. I have not found any individual or cumulative material considerations, including the contribution of the business to the local economy, conditions to limit the effects of the development and in relation to the alternative residential use, that would outweigh that harm.
26. For these reasons, I conclude that on balance the development does not accord with the development plan. Appeal B therefore should be dismissed.

Appeal A on Ground (g)

27. An appeal on this ground is that the period specified in the notice for compliance falls short of what should reasonably be allowed. The appellant suggests that a period of 12 months would be required to enable the appellant to find alternative premises for the business.
28. From the information submitted and summarised above, it is clear that the appellant may find it difficult to find alternative accommodation taking account of the searches they have carried out to date and the evidence from the ELNA. I am also aware that the business provides a significant level of employment that would be affected if a suitable alternative site were not found.
29. I am aware that the effects of the development would continue for the period in which the use remains in this location. Nevertheless, I accept that a longer period of 12 months would be reasonable in this instance.
30. For these reasons, I conclude that the appeal under ground (g) should succeed.

Formal Decisions

Appeal A

31. It is directed that the enforcement notice is corrected and varied by:
- The deletion of requirement 1. 'Cease the use of the land for commercial vehicle sales including their storage, preparation and display pending sale' and the substitution of 'Cease the mixed use of the land consisting of residential and commercial by ceasing commercial vehicle sales including their storage, preparation and display pending sale' in section 5. What you are required to do; and
 - The deletion of 6 months and the substitution of 12 months as the period for compliance.
- Subject to the correction and variation, the appeal is dismissed and the enforcement notice is upheld.

Appeal B

32. The appeal is dismissed.

AJ Steen

INSPECTOR