



Appeal Decision

Site visit made on 20 January 2026

by **M. P. Howell BA (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 MARCH 2026

Appeal Ref: APP/C5690/C/24/3352755

222 Verdant Lane, London SE6 1TN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Rajmohan Rasanayagam against an enforcement notice issued by the Council of the London Borough of Lewisham.
- The notice was issued on 21 August 2024.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised change of use to B2 vehicle repairs.
- The requirements of the notice are to:
 - (1) Cease the unauthorised use of the garages and hardstanding, located within the area marked in blue on the attached plan, for B2 vehicle repairs, and
 - (2) Make good all damage resulting from compliance with the requirements of step (1); and
 - (3) Remove all materials, debris, waste and equipment resulting from compliance with Steps (1) and (2) of this Notice from the land.
- The period for compliance with the requirements is: 1 (one) month after this notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) 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 Decision: The enforcement notice is quashed.

Matters Concerning the Enforcement Notice

1. Section 55(1) of the Town and Country Planning Act 1990 (1990 Act) indicates that 'development' includes "the making of any material change in the use of any building or other land." Section 57 of the 1990 Act further states that planning permission is necessary for any 'development' of land. While the Enforcement Notice (Notice) states there is an 'unauthorised change of use to B2 vehicle repairs,' it fails to claim that the change of use is 'material'. The breach of planning control alleged in the Notice does not, therefore, constitute 'development' as defined in section 55 of the 1990 Act.
2. Consequently, the Notice is defective, and the allegation should be corrected to ensure it aligns with the terminology used in the 1990 Act. I have also identified more significant defects in the Notice, which have caused me to consider the position with regard to the validity of the Notice or, indeed, whether it is a nullity. These relate to matters concerning how the land to which the notice relates has been identified, the uses on site, the breach alleged and its requirements.
3. After conducting a site visit, I noted what appeared to be several uses occurring within the area outlined by the red line on the attached plan accompanying the Notice. This area comprises a retail property with a residential unit situated directly above it, as well as an adjoining two-storey residential property. To the side of the two-storey residence, there are three single-storey garages arranged in a slightly staggered formation. In front of the properties, a hardstanding area extends across

the full width of the site. The hardstanding area directly outside the retail unit included the stationing of a parcel locker and an external covered sales area in connection with the convenience store. Two of the garages were securely locked and were inaccessible to the person on site; as such, I could not view inside them. However, I did see that vehicle repairs were being carried out in the larger garage I was able to access, as well as on parts of the hardstanding area at the front.

4. In the submissions, the main parties also detail various uses occurring within the identified red line. These descriptions indicate a mixed use of a retail convenience store and residential uses, as well as the alleged unauthorised B2¹ vehicle repair use in the garages. My observations, along with the submitted documentation, indicate that the area outlined in red on the attached plan features a variety of uses and activities. However, this differs from the allegation in the Notice, which only claims a vehicle repair use is occurring on the land and buildings edged in red.
5. The appellant has appealed on ground (a), and the deemed planning application arises from the allegation in the Notice. Since this allegation concerns the land outlined in red, the deemed application will be for a vehicle repair use covering the entire site. This contrasts with the mixed-use observed and described by the parties, which includes residential and retail components in addition to the alleged unauthorised use. As such, the allegation would need to be corrected to reflect the activities on the site and to consider a planning application for the mixed-use, which is likely to differ from considering the impacts of a vehicle repair use on its own.
6. The Notice requires the vehicle repair activities in the garages and on the hardstanding located within the blue area on the plan to cease. However, since the unauthorised vehicle repairs are alleged throughout the site, requiring them to cease in the blue area means that Section 173(11) of the 1990 Act would apply. If the Notice is upheld as drafted, the outcome would be that the vehicle repair activities alleged within the red line but are not included in the requirement to cease would be granted planning permission. This outcome conflicts with the reasons for issuing the Notice in paragraph 4, which concerns itself with the adverse impact of the use on neighbouring occupants' living conditions and highway safety.
7. In view of the errors and defects, I find the Notice to be invalid, but not so hopeless as to render it a nullity. The Council and appellant were made aware of this and were encouraged to provide observations on the matter. The appellant indicated that the Notice cannot be corrected or varied without causing injustice. The Council considered that the addition of the word 'material' could be included without causing injustice. The Council also indicated that the red line denotes the planning unit, and the blue line has been added to specify the location where the activity that is subject to the Notice is taking place. The Council suggested the blue line on the plan could be deleted, which could be carried out without causing any injustice.
8. I have had regard to the Council's suggested variation as well as the powers transferred to Inspectors under section 176(1)(a) of the 1990 Act, which include correcting any defect, error or misdescription in the enforcement notice or, under section 176(1)(b) of the 1990 Act, to vary the terms of the enforcement notice. In each case, the only test is whether the correction or variation will not cause any injustice to the appellants or the local planning authority.

¹ B2- General Industry Classification in The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

9. Having regard to the appellant's case and their appeal on ground (a), they have clearly understood that the allegation was intended to refer to a 'material' change of use to B2 vehicle repairs. Therefore, I am satisfied that a minor correction of the allegation in the Notice to include the word 'material' would not cause injustice to either party in this instance. However, if I were to delete the blue line from the plan as suggested by the Council, this would not resolve the issues I have highlighted.
10. Removing the blue line will not affect the red line area or the wording of the allegation, meaning the vehicle repair use will still be alleged across the entire site. The wording of step 1 of the requirements could be varied to remove reference to the blue line, but it still only requires the unauthorised use of the garages and hardstanding for vehicle repairs to cease. Section 173(11) of the 1990 Act would, therefore, still be engaged, resulting in a similar outcome. Notwithstanding this, the hardstanding to the front is larger than the area edged by the blue line, so deleting the blue line would result in a requirement to cease the alleged use across a wider area of hardstanding. This varied requirement would, therefore, be more onerous and cause injustice to the appellant.
11. I considered whether I could vary the plan to reduce the size of the red line or to correct the wording of the allegation to refer to multiple uses and the blue line. However, varying the plan this way or correcting the allegation to refer to a mixed-use and the blue line would take away the unconditional planning permission currently granted to the appellant through compliance with the Notice. Consequently, this variation or correction would result in an injustice to the appellant by removing their unconditional permission.
12. Accordingly, I must conclude that the Notice is invalid, and varying or correcting the Notice would cause injustice to the appellant. It would, therefore, be appropriate to quash the Notice, allowing the Council the opportunity to decide whether to exercise its powers under section 171B (4) of the 1990 Act to take further enforcement action, if it considers it expedient to do so.

Conclusion

13. For the reasons given above, I find that the Notice is invalid and incapable of correction and variation since I am unable to conclude how the Notice should be corrected and or varied in accordance with my powers under s176(1)(a) of the 1990 Act, since injustice would be caused to the appellant if I were to do so. The Notice is, therefore, invalid and is quashed.
14. In these circumstances, the appeal made on grounds (a) and (g) as set out in section 174(2) of the 1990 Act, as amended, and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act, as amended, do not fall to be considered.

Formal Decision

15. The enforcement notice is quashed.

M. P. Howell

INSPECTOR