



Appeal Decision

Site visit made on 30 April 2026

by **V Goldberg BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 May 2026

Appeal Ref: APP/P3610/C/25/3362490

Land at Ground floor, 185 Kingston Road, Ewell, Surrey KT19 0AA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
 - The appeal is made by Mr Sandra Martinez against an enforcement notice issued by Epsom and Ewell Borough Council.
 - The notice was issued on 3 March 2025.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use from Class E (Commercial, Business and Service) to Class B2 (General industrial).
 - The requirements of the notice are to:
 - i) Cease the use of the ground floor of the Land as a motorcycle and vehicle repair workshop (B2)
 - ii) Remove all equipment associated with the motorcycle and vehicle repair workshop from the Land.
 - iii) Remove all resultant materials from the Land resulting from steps i-ii.
 - The periods for compliance with the requirements is: Three (3) months from the date this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2) (c) and (f) of the Town and Country Planning Act 1990 (as amended).
 - **Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a correction in the terms set out below in the Formal Decision.**
-

The Enforcement Notice

1. The allegation in the Enforcement Notice (EN) refers to a material change of use from Class E to Class B2 but does not specify the particular use or activities said to constitute the alleged breach of planning control. There is no requirement for an enforcement notice to identify the previous use, but the allegation must be sufficiently clear as to the nature of the breach alleged. As drafted, the allegation lacks clarity as to the use said to have occurred. However, the requirements of the EN refer to a Class B2 use as a motorcycle and vehicle repair shop. It is therefore clear, from the four corners of the EN, that the notice is directed at the use of the ground floor of the premises as a motorcycle and vehicle repair workshop.
2. On this basis and having regard to the appellant's description of the use as motorcycle servicing and tyre-fitting, together with the appellant's agreement that the appeal can be determined on the available information, no injustice to either party would arise from correcting the allegation. The alleged breach of planning control is therefore corrected by replacing it with: "the material change of use to a motorcycle and vehicle repair workshop."

Preliminary Matters

3. The appeal has been made on ground (f). However, the appellant's Statement of Case contends that the activities carried out do not amount to a material change of

use and are compatible with Class E. Matters of this nature fall to be considered under ground (c), namely that the matters alleged in the notice do not constitute a breach of planning control.

4. The appellant was invited to confirm whether an appeal on ground (c) was being pursued and has confirmed that this is the case. The Council was also given the opportunity to comment in respect of ground (c). The appeal therefore proceeds on grounds (c) and (f).

Appeal on ground (c)

5. An appeal on this ground is that the matter alleged, if it has occurred, does not constitute a breach of planning control. It is for the appellant to show, on the balance of probability, that the change of use to a motorcycle and vehicle repair workshop is not development.
6. S55(1) of the Act defines development' as 'the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land'.
7. The concept of a material change of use is not defined in statute. However, it is well established through case law that, for a material change of use to have occurred, there must be a material change in the definable character of the activities taking place when compared with the previous use. This is a matter to be determined on the facts and circumstances of each case, and as a matter of fact and degree.
8. On the basis that there is no industrial-scale operation and that the service provided is limited, clean, and customer-facing, the appellant contends that the use is consistent with a Class E commercial use. However, the relevant consideration is whether there has been a definable change in the character of the activities taking place when compared with the former use of the appeal site as a computer repair shop.
9. On site I noted that the appeal site advertises motorcycle servicing, repairs and MOTs and the premises are fitted out as a motorcycle servicing and repair workshop. Whilst the appeal site does not operate as a general vehicle repair centre, the floor area is largely occupied by service ramps and motorcycles and scooters. The space contains specialist equipment, tool storage units, oil and fluid containers, and tyre-related apparatus. I also noted a wall-mounted display of tyres, together with shelving used for parts and consumables. The internal layout is therefore configured for workshop activity rather than retail display, with limited floor space available for customers.
10. In contrast, the former use of the appeal site for computer repairs would typically have involved small-scale, desk-based activities carried out within a relatively clean and quiet environment, with limited equipment and negligible vehicle movements associated with the use.
11. I note the appellant's contention that no industrial machinery has been installed, that only light routine maintenance is undertaken, and that the activities do not generate noise or fumes. Notwithstanding these points, the current use involves the regular presence of motorcycles and scooters within and outside the premises,

the use of servicing ramps, and the storage and handling of tyres, oils and other automotive fluids.

12. These activities are materially different in nature and intensity from the former use and give rise to a distinct and clearly different character. Taken together, these factors represent a clear and definable change in the character of the activities undertaken at the site, sufficient to amount to a material change of use as a matter of fact and degree. The appellant has therefore failed to show, on the balance of probabilities, that a material change of use has not occurred.
13. For the above reasons, the appeal on ground (c) fails.

Appeal on ground (f)

14. An appeal is brought under ground (f) on the basis that the steps required by the EN exceed what is necessary to remedy any breach of planning control identified in the Notice, or, as the case may be, to remedy any injury to amenity arising from that breach.
15. Given that the purpose of the EN is to remedy the breach of planning control, the only means of compliance identified is the cessation of the motorcycle and vehicle repair workshop use. Consequently, the requirements of the EN are appropriate and do not exceed what is necessary to remedy the breach of planning control. The appellant has not advanced any lesser steps that would achieve the same outcome and therefore the ground (f) appeal fails.

Overall Conclusion

16. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the corrected EN.

Formal Decision

17. It is directed that the EN is corrected by:
 - The deletion of the words *“Without planning permission the material change of use from Class E (Commercial, Business and Service) to Class B2 (General Industry) and substitute with the words “the material change of use to a motorcycle and vehicle repair workshop.” in section 3.*
18. Subject to this correction, the appeal is dismissed and the EN is upheld.

V Goldberg

INSPECTOR