



Appeal Decision

Hearing held on 14 April 2026

Site visit made on 14 April 2026

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 June 2026

Appeal Ref: APP/G5180/C/25/3376787

Hillside Farm, Rushmore Hill, Sevenoaks TN14 7NL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Brian Keating (Progress Vehicle Management) against an enforcement notice issued by the Council of the London Borough of Bromley.
 - The notice was issued on 24 November 2025.
 - The breach of planning control as alleged in the notice is without the required planning permission - operational development comprising the erection/construction of: 1. A hardstanding car parking area marked "A" and coloured yellow on the attached plan; 2. 4 single storey structures marked "B", "C", "E" and "F" on the attached plan; AND without the required planning permission, the material change of use of the site from open land/green fields/agricultural use to a mixed use of storage (Class B8), vehicle repair/maintenance services (Class B2), car wash and car park (sui generis) and a gym (Class E(d)) and such uses have been facilitated by the placing of a container unit (marked D on the attached plan) and associated plant/equipment (marked G on the attached plan) on the site.
 - The requirements of the notice are:
 - (a) Remove all unauthorised storage containers;
 - (b) Remove any plant equipment and machinery associated with the unauthorised use;
 - (c) Demolish all unauthorised buildings/structures;
 - (d) Remove all unauthorised hard standing;
 - (e) Clear the site of all debris and dispose of all waste materials resulting from complying with (c) and (d);
 - (f) Cease using any part of the site for storage;
 - (g) Cease using any part of the site as a car park;
 - (h) Cease using any part of the site for vehicle repair/maintenance and car washing services;
 - (i) Cease using any part of the site as a gym; and
 - (j) Restore the site to its previous condition before the breach of planning control took place.
 - The period for compliance with the requirements is: 12 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (e), 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.
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Decision

1. The enforcement notice is quashed.

The Notice

2. Irrespective of the grounds of appeal that have been advanced, I have a duty to ensure that the notice is in order. On an appeal any defect, error, or misdescription in an enforcement notice may be corrected using the powers available in section 176(1)(a) of the Town and Country Planning Act 1990 as amended ("the 1990 Act"), or the terms varied, where the correction or variation will not cause injustice to either the appellant or the local planning authority. If the notice cannot be corrected, I must quash the notice.

3. The notice alleges both operational development and a material change of use of the land. In consideration of an alleged material change of use of land, it is necessary to identify the extent of the planning unit or units. The leading case relating to planning units is *Burdle*¹. It was held in *Burdle* that the planning unit is normally the unit of occupation unless a smaller area can be identified, which as a matter of fact and degree, is physically separate and distinct and occupied for different and unrelated purposes. Three broad categories are identified for planning units which are:
 - a) A single unit of occupation with a single primary use with ancillary and incidental activities;
 - b) A single unit of occupation with two or more separate primary uses that are not incidental to one another (mixed use); and
 - c) A unit of occupation with two or more physically separate areas which are occupied for different and unrelated purposes. Each area in this scenario forms a separate planning unit.
4. The Council's position is that the land identified by the enforcement notice falls under the second category above and is operating as a single planning unit with a mixed use. The notice attacks a material change of use of the land to a mixed-use comprising storage, vehicle repair/maintenance services, car wash, car park, and a gym. It is apparent that the storage use referred to in the allegation relates to the storage of vehicles.
5. Any allegation of a mixed use of a planning unit should include reference to all of the uses taking place there. Following *East Sussex*², it is not open to the Council to decouple uses taking place within a single planning unit. Upon hearing the main parties' evidence and after conducting a site visit, I had serious concerns with the alleged mixed use. As a starting point, it was apparent that the car park, car wash, and gym were not separate primary uses, but were in fact ancillary and incidental to the other use(s) taking place on the land.
6. Turning now to the vehicle storage and vehicle repair/maintenance uses, there was some dispute between the parties regarding whether each use took place in physically separate areas which were occupied for different and unrelated purposes (each being a separate planning unit), or whether they were separate primary uses that were not incidental to one another within a single unit of occupation (mixed use).
7. The appellant argued that the only area within the enforcement notice red line plan that was associated with the vehicle repair use was the plant/equipment shown marked "G" on the plan. The Council subsequently submitted an amended plan omitting "G" and the land immediately around it, primarily with the aim of overcoming the appellant's ground (e) appeal. It was the appellant's case that, subject to this amended plan, there would be no vehicle repair use taking place within the enforcement notice red line with the vehicle repair activities effectively being contained within a second planning unit that fell outside of the appeal site.
8. However, whilst it appears highly probable that the physical repairing and maintenance of vehicles takes place within buildings which are outside of the

¹ *Burdle & Williams v SSE & New Forest DC* [1972] 1 WLR 1207

² *R (oao East Sussex CC) v SSCLG & Robins & Robins* [2009] EWHC 3841 (Admin)

- enforcement notice red line, I am not satisfied that activities associated with that use do not also occur on land that is subject of the enforcement notice.
9. At the hearing both the appellant Brian Keating (BK) and his planning consultant Paul Nicholls (PN) confirmed that PACE, the company undertaking the vehicle repair activities, do occasionally use the car wash facilities shown marked “B” on the enforcement notice plan. BK also stated that PACE sometimes repair vehicles for Progress Vehicle Management (PVM) who occupy the remainder of the appeal site. I also observed during my site visit that several vehicles that were damaged, or seemingly awaiting repair, were stored on the appeal site including in the area shown marked “A” on the notice. Finally, given the site layout I find it highly probable that visitors and customers of PACE would park within the appeal site.
 10. Although the appellant contends that these uses take place on different parts of the site, there is little evidence to suggest that they take place in physically and functionally separate areas. From my observations, the land appears to be in single ownership, with two businesses (PACE and PVM) occupying it, each not necessarily in a single or fixed location with there being a fluidity of where vehicles and activities associated with both businesses take place. This all points to it being likely that the land was and continues to be a single planning unit. By extension, all of the uses must form a single mixed use.
 11. Whilst enforcement notices do not always have to refer to or identify the planning units, it seems to me that, in this case, the enforcement notice should have encompassed the buildings occupied and used by PACE as they form part of the planning unit and are inherently linked to the part of the alleged mixed use. The cessation of the (corrected) mixed use would not prevent the appellant from a return to the last lawful use of those buildings by virtue of section 57(4) of the 1990 Act.
 12. The shared vehicular access was also not included, and I observed during my site visit that structures belonging to PVM, including a “Fleet Office”, as well as vehicles, were located on land to the south of the internal access road. In my judgement these areas also form part of the planning unit and should have been included within the enforcement notice red line. It is inappropriate to artificially subdivide the planning unit, especially where there is little, if any, evidence of physical or functional separation and there are shared and common areas and access. To incorporate those additional areas now though would widen the scope of the notice and potentially exacerbate the appellant’s ground (e) appeal.
 13. However, irrespective of my finding above regarding the planning unit, I also consider there to be a further issue regarding the alleged material change of use. As already set out above, any allegation of a mixed use of a planning unit should include reference to all the uses taking place on the land. Whilst the allegation refers to the storage and vehicle repair uses taking place on the land, there is no mention of any office use.
 14. Both parties referred to an office in their respective appeal submissions, however the scale of the office activities did not become apparent until during the site visit. The building shown marked “C” on the enforcement notice plan is a Transport Logistics Office for PVM, whilst the building marked “F” is the office and reception for PVM.

15. In particular, building “F” is of significant size measuring over 400 square metres in area. Internally, the building is laid out as an office and includes a large open plan area with separate desks and computers for employees, as well as separate offices and meeting rooms. It was evident that employees would attend these premises as their place of work and carry out common office-based duties. PN confirmed at the hearing that PVM was a motor claims handling service, and from the available evidence it is apparent that this particular service takes place from the office(s) in addition to the storage of damaged or replacement/courtesy cars at the site.
16. Whilst the description of proposed development on a retrospective planning application cannot always be relied upon as being an accurate reflection of what is occurring on site, I do note that the previous retrospective application³ which was refused by the Council on 19 July 2024 did include reference to “2x *single storey office buildings (Use Class E(g)(i))*”. In this instance I find, as a matter of fact and degree, that an office use has been and is occurring at the appeal site. Absent of any reference to the office use as part of the alleged mixed use, the notice fails to encompass the extent of uses within the planning unit.
17. I have carefully considered whether the notice could be corrected to allege a mixed-use encompassing vehicle storage, vehicle repairs/maintenance, and office use, as well as an amendment to the enforcement notice red line so that it identifies the correct planning unit. However, such a correction would amount to a substantial re-drafting exercise that would result in the notice being significantly different from that which was issued.
18. I find it unlikely that the appellant would have appealed on other additional grounds. Nevertheless, a full description of the alleged mixed use, omitting the gym and car parking uses and including office use, may have changed the Council’s and the appellant’s case on ground (a). Accordingly, I am not satisfied that no injustice would be caused if I were to correct the notice and site plan.
19. My decision does not prevent the Council taking further enforcement action, under the provision of section 171B(4) of the 1990 Act, should it consider it expedient to do so.

Conclusion

20. For the reasons given above, I find that the notice does not specify with sufficient clarity the alleged breach of planning control and the land to which it relates. It is not open to me to correct the errors in accordance with my powers under section 176(1)(a) of the 1990 Act, since injustice would arise were I to do so. The enforcement notice is invalid and is quashed.
21. In these circumstances, the appeal made on the grounds set out in section 174(2) (a), (b), (e), and (g), and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act do not fall to be considered.

David Jones

INSPECTOR

³ Council Ref: 23/04250/FULL

APPEARANCES

FOR THE APPELLANT:

Paul Nicholls	Planning Director, Graham Simpkin Planning
Brian Keating	Appellant
Sophie Jones	Compliance Officer, Progress Vehicle Management

FOR THE LOCAL PLANNING AUTHORITY:

David Bord BA(Hons) PGDip MRTPI	Principal Planner
Simon Morgan	Planning Investigation Officer
Christopher Ryder	Tree Team Manager

INTERESTED PARTIES:

Toni Trainer	Resident
Sue Ling	Resident
Olivia Duarte	Resident

DOCUMENTS SUBMITTED AT THE HEARING

1. PTP Transport Statement dated March 2026
2. PTP Vehicle Trip Generation Technical Note dated 20 March 2026
3. Aether Air Quality Assessment dated April 2026
4. Draft planning obligation
5. Letter dated 15 June 2020 from GM Everard Ltd

DOCUMENTS SUBMITTED AFTER THE HEARING

1. Signed planning obligation by unilateral undertaking under s106 of the Town and Country Planning Act 1990, dated 28 April 2026