



Appeal Decision

Site visit not required

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28th July 2026

Appeal Ref: APP/W4705/C/25/3375503

Land at 167-169 North Wing, Bradford, BD3 0EL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Kaiser Rasab of Kez Autos against an enforcement notice issued by City of Bradford Metropolitan District Council.
 - The notice was issued on 2 October 2025.
 - The breach of planning control as alleged in the notice is without planning permission, the material changes of use from F2 (Local Community) to B2 (General Industrial) for motor vehicle repairs, as shown in the attached photographs.
 - The requirements of the notice are to i) cease the unauthorised use of the land for motor vehicle repairs (B2 General Industrial) and ii) remove all associated equipment, apparatus, parts and motor vehicles brought onto the land in connection with the unauthorised use.
 - The period for compliance with the requirements is one calendar month.
 - The appeal is proceeding on the ground set out in section 174(2)(d) of the Town and Country Planning Act 1990 (as amended) (the Act).
-

Decision

1. It is directed that the enforcement notice is corrected and varied by 1) the deletion of the words in section 3 and the substitution of the words *"Without planning permission, the material change of use from F2 (Local Community) to B2 (General Industrial) for motor vehicle repairs, as shown in the attached photographs"*, and 2) the deletion of the words in section 6 and the substitution of the words *"One calendar month from the date the Notice takes effect"*. Subject to the correction and variation, the appeal is dismissed and the enforcement notice is upheld.

The Notice

2. There is a typographical error in the breach of planning control as detailed in section 3 of the Notice in so far that it states *"the material changes of use"* when it should say *"the material change of use"*. I shall accordingly correct the breach of planning control and in doing so no injustice would be caused to any of the main parties. Moreover, and, in the interests of precision and without injustice being caused to the main parties, I shall vary the wording in section 6 of the Notice from *"one calendar month"* to *"one calendar month from the date the Notice takes effect"*.

Ground (d) appeal

3. An appeal made on ground (d) is that at the date when the Notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters. In an appeal against a Notice on ground (d), the burden of proving relevant facts is on the appellant, and the relevant test of the evidence is on the balance of probability.

4. The appellant makes the claim that the company has rented the building for ten years and that a lease was signed for it on “*18 November 2015 and started preparing the garage straight away*”. The Notice was issued on 2 October 2025. In respect of section 171(B) of the Act, it is necessary for the appellant to prove, on the balance of probability, that the building has been used as a motor vehicle repairs business for a continuous period of ten years for such a use to be immune from enforcement action and therefore lawful.
5. Even if I were to take the view that the lease dated 18 November 2015 corresponded with an immediate use of the appeal building as a motor vehicle repair business, the continuous use of the building on this basis up to the date of the issued Notice, i.e., 2 October 2025, would not equate to a continuous ten years use. In any event, the appellant has not provided precise and unambiguous evidence to demonstrate that the building was in use for motor vehicle repairs, or that preparatory works had finished to enable such a use to commence, on 18 November 2015 or before that.
6. As outlined above, the appellant states that while the lease was signed on 18 November 2015, he “*started preparing the garage straight away*”. This casts doubt on any claim that the motor vehicle repairs business commenced immediately on 18 November 2015. In my judgement, it is more likely than not that the building was not in use as a motor vehicle repair business until sometime after 18 November 2015. The appellant’s evidence lacks precision in terms of the actual date of commencement of the breach of planning control.
7. It is also noteworthy that the Council states that business rates only started to be paid in respect of ‘Kez Autos Limited’ from 18 November 2015. This has not been disputed by the appellant. It further demonstrates, on the balance of probability, that the motor vehicle repair business started sometime after 18 November 2015.
8. The evidence in the form of the lease and business rate information casts doubt about the appellant’s ten-year continuous use claim. Such doubt is further compounded in so far that firstly, a July 2015 Google image shows a front shutter to the front elevation (with no evidence of any motor vehicle repair business use), and then in July 2016 a further Google image shows that the same opening has been altered/widened which more likely than not occurred to facilitate vehicular access into the building, and, secondly, the undisputed evidence is that prior to business rates being paid by Kez Autos Limited on 18 November 2015 it was being paid by the occupier/owner of a furniture shop albeit that the evidence is that the use was unauthorised from a planning point of view.
9. For reasons outlined above, and, on the balance of probability, I therefore conclude that when the Notice was issued it was not too late to take enforcement action. The ground (d) appeal therefore fails.

Conclusion

10. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and a variation.

D Hartley

INSPECTOR