



Appeal Decisions

Site visit made on 16 June 2026

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2026

Appeal Refs: APP/G4620/C/25/3371094 (Appeal A) & 3371095 (Appeal B) & 3371096 (Appeal C)

134 Franchise Street, Wednesbury WS10 9RG

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeals are made by Mr Gul Nawaz (Appeal A), Ms Henna Nawaz (Appeal B) and West Midlands Cars Ltd (Appeal C) against an enforcement notice issued by Sandwell Metropolitan Borough Council.
- The notice was issued on 16 July 2025.
- The breach of planning control as alleged in the notice is Without Planning Permission, unauthorised development from warehouse to car sales, external alterations to front. ("the. Unauthorised Development").
- The requirements of the notice are to:
 - 5.1 Cease the car sales from the site
 - 5.2 To remove all cars from the site
 - 5.3 To remove all signage and anything else associated with car sales from the site.
- The period for compliance with the requirements is: 3 months.
- The appeals are proceeding on the grounds set out in section 174(2)(c), (d), (f) and (g) of the Town and Country Planning Act 1990 (as amended).

Decisions

1. It is directed that the enforcement notice is corrected and varied by:
 - At section 3 of the notice, the deletion of sub-paragraph 3.1 and its substitution with the following 'Without Planning Permission, the material change of use from a warehouse use to car sales use (the "Unauthorised Development")'.
 - At section 5 of the notice, sub-paragraph 5.1, between the words 'sales' and 'from', the insertion of the word 'use' so that it says 'To cease the car sales use from the site.'
 - At section 5 of the notice, sub-paragraph 5.2, between the words 'cars' and 'from' the insertion of the words 'associated with the car sales use' so that it says 'To remove all cars associated with the car sales use from the site.'
 - At section 5 of the notice, sub-paragraph 5.3, between the words 'with' and 'car' insert the word 'the' and between the words 'sales' and 'from' the insertion of the word 'use' so that the requirement says 'To remove all signage and anything else associated with the car sales use from the site.'
2. Subject to the corrections and variations above, the appeals are dismissed and the enforcement notice is upheld.

Preliminary Matters

3. Although the appellants ticked ground (a) on their appeal form, the Planning Inspectorate wrote to the parties on 18 August 2025 confirming that it considers that ground (a) is barred because the notice was issued within the two-year period after the making of a related application. That related application was refused and has since been appealed, with a decision issued on 3 December 2025, reference APP/G4620/W/25/3359074.
4. The enforcement notice alleges 'Without planning permission, unauthorised development from warehouse to car sales, external alterations to front. ("the Unauthorised Development")'. Section 55(1) of the Act sets out that, subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development", means 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. It seems from the evidence that the Council is concerned that a material change of use of the land from warehouse use to a car sales use has occurred.
5. Although the Council has included 'external alterations to front' in the allegation, it is not clear from the four corners of the Notice what those alterations are. While the allegation broadly reflects the description used by the appellants in relation to planning application DC/23/68374, it is necessary for the notice to be clear about the development that is being alleged to have occurred. I queried whether it is necessary for the allegation to refer to the 'external alterations to front' and whether the notice should be corrected to allege 'Without planning permission, the material change of use from a warehouse use to a car sales use.'
6. Significantly, in response to my query, the Council advise that external alterations to the front and entrance gates have not been carried out. Correcting the notice to refer to allege a material change of use and deleting reference to alterations to the front would not change the scope of the allegation and so I consider no injustice would be caused by such a correction. I shall correct the notice accordingly.
7. I shall also make corresponding corrections to Requirements 5.1 and 5.3 so that they require the recipient of the Notice to 'cease the car sales **use** from the site' and 'To remove all signage and anything else associated with the car sales **use** from the site'. Such corrections would not alter the scope of the Notice or make it more onerous to comply with and so I consider such a correction can be made without causing injustice to either party.

Ground (c)

8. An appeal under ground (c) is made on the basis that the matters stated in the notice (if they occurred) do not constitute a breach of planning control. The appellants' case under ground (c) is made in respect of the gates and the cladding to the front of the premises. No argument is advanced in terms of the use of the property.
9. The appellants suggest that, in respect of the gates, there has not been a breach of planning control and refer to a Google Street image dated September 2009, which shows that a pair of gates some 2.1 metres high were present on the land in 2009. It is the appellants' case that the height of the gate does not exceed its former height and as such is development that is permitted by Class A, Part 2,

Schedule 2 of the GPDO. However, the enforcement notice does not allege the erection of gates. An argument that removing them would be excessive should be considered under ground (f).

10. In terms of cladding, it is suggested that this does not comprise development and therefore no breach has occurred. As set out above, the Council's concern is the material change of use of the site and, as set out above, I have found that the notice should be corrected to allege the material change of use rather than operational development. The appellants do not dispute that the material change of use has occurred and so the appeals under ground (c) must fail.

Ground (d)

11. An appeal under ground (d) is made on the basis 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 the matters stated in the notice. As the enforcement notice was issued on 16 July 2025, the appellants will need to show, on the balance of probabilities, that the material change of use occurred on or before 16 July 2015 and continued without significant interruption for a period of at least 10 years thereafter.
12. The appellants' case under ground (d) has been advanced in respect of the gates and not the material change of use. The appellants state that, in respect of the gates, at the time the enforcement notice was issued, it was too late to take enforcement action against the gates. However, as set out above, the enforcement notice does not allege the erection of gates. The appellants do not suggest that the material change of use of the site is immune from enforcement action and the Council suggests that cars have been on site since 2021.
13. Although a single car can be seen for sale in a Google Streetview image in 2019, there is no substantive evidence to show that the use has continued for a period of 10 years and so the appeals under ground (d) must fail.

Ground (f)

14. An appeal under ground (f) is made on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by the matters stated in the notice or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
15. Section 173(4) of the Act sets out the purposes of a notice are (a) remedying the breach by making any development comply with the terms... of any planning permission..., by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or (b) remedying any injury to amenity which has been caused by the breach. Since the requirements of the notice are to cease the use of the site, I consider the purpose of the notice is to remedy the breach.
16. The appellants raise concern under ground (f) regarding requirement 5.2, which requires them to remove all cars from the site. Following compliance with the notice, the appellants would be able to revert to the purpose for which it could lawfully have been used if that development had not been carried out by virtue of section 57(4) of the Act. The appellants state this is a B8 Storage and Distribution

use. A storage and distribution use would be highly likely to include the parking of vehicles.

17. The Council advise that the lawful storage and distribution use related to the use of the commercial building on site, not for the external storage of vehicles on the land. However, I would still expect users of the site to access the premises by vehicle and to choose to park a vehicle or vehicles within the site and so I consider it would be entirely reasonable to have cars on the site as part of such a use. I agree that requiring all cars to be removed from the site would be excessive.
18. I raised with the parties whether the Notice should be varied to state 'To remove all cars associated with the car sales use from the site.' The Council suggests the wording could be varied to say, 'unauthorised development', however, since the unauthorised development *is* the car sales use, varying it in this way has the same effect. I shall vary the notice accordingly.
19. It is suggested that there is no need to remove all signage from the site and that signage could be used as part of the lawful use of the site. However, an enforcement notice that is directed at a material change of use may require the removal of works that were ancillary or incidental to the unauthorised use, even if such works on their own might not constitute development, so that the land is restored to its condition before the breach of planning control took place. Such a requirement is therefore not excessive, and the appeals fail in this respect.
20. As discussed above, the appellants have advanced various arguments in respect of the gates. The notice does not specifically require that the gates are removed and so there is no need to vary the notice to enable them to stay.
21. Thus, the appeals under ground (f) succeed in respect of Requirement 5.2 only.

Ground (g)

22. An appeal under ground (g) is made on the basis that the period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed. The appellants state that the development supports 6 full time jobs and brings benefit to the local economy and that they will need to find alternative premises (in the event the notice is upheld) and secure planning permission. If there is to be no impact to its business and those that it employs, they suggest 9 months would be a more reasonable period.
23. The Council raise concerns regarding the impact of the car sales use on the highway. I also note that concern has been raised by interested parties regarding the effect on highway and pedestrian safety and that appeal APP/G4620/W/25/3359074 was dismissed on highway safety grounds as well as living conditions. That decision was issued in December 2025.
24. There is no ground (a) appeal¹ and the appeals under grounds (c) and (d) are advanced in respect of the gates and the cladding and so success in that respect is unlikely to have led to the quashing of the Notice. The appellants have therefore been aware for some time now that they are likely to need to look for alternative premises. Moreover, the appellants have provided me no evidence to show that suitable alternative premises are not readily available.

¹ Because the appeal under ground (a) is precluded by virtue of section 174(2A) of the Act.

25. While I recognise that the appeal site provides employment, I am mindful that this needs to be balanced with the public interest in the enforcement notice being complied with expeditiously. In my judgement, given the modest size of the site, three months would give the appellants a reasonable period of time to find alternative premises and to remove signage, cars and items associated with the unauthorised use from the premises. I consider that the compliance period of three months is reasonable and proportionate and so the appeals under ground (g) fail.

Conclusion

26. For the reasons given above, I conclude that the requirements of the notice are excessive to remedy the breach of planning control. I shall correct and vary the enforcement notice prior to upholding it. The appeals on ground (f) succeed to that extent.

M Savage

INSPECTOR