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## Appeal Decision

Site visit made on 18 March 2025

by **Martin Allen BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 June 2025

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### Appeal Ref: APP/B5480/C/23/3319033

### 39 Horndon Road, Romford RM5 3EU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mrs Anjum Parveen Ishtiaq against an enforcement notice issued by the Council of the London Borough of Havering.
- The notice was issued on 2 March 2023.
- The breach of planning control as alleged in the notice is, without planning permission, the material change of use from a dwelling to a mixed sui generis use as a dwelling and for the storage and sale of motor vehicles.
- The requirements of the notice are to:
  1. Cease the use of the land for the storage or sale of motor vehicles, and
  2. Remove from the land all motor vehicles and motor vehicles parts in connection with the unlawful use, and
  3. Remove the hard surface that has been created to the rear of the premises, and
  4. Remove from the land all rubbish, building materials and debris resulting from taking steps 1 to 3.
- The periods for compliance with the requirements are:  
For steps 1 and 2 – One month.  
For steps 3 and 4 – Three months.
- 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, as corrected in the terms set out below in the Formal Decision, is upheld.**

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### Ground (c) and hidden ground (b)

1. An appeal on ground (c) is a claim that the matters alleged in the notice do not constitute a breach of planning control. The burden of proof falls on the appellant and the relevant test of the evidence is on the balance of probabilities. In addition to the appellant indicating an appeal on ground (c), I also consider that arguments have been put forward in respect of ground (b), i.e., that the breach of control as set out in the notice has not occurred as a matter of fact. I therefore will also consider this ground and will consider it first.
2. The appellant, in support of their stance under both grounds of appeal, states that the property has never been used as a business premises, with cars only occasionally parked at the site. In support of this it is asserted that the address has never been registered as a business address. There is also a commitment to remove all vehicles from the appeal site. Additionally, it is stated that the garden area of the property has been paved for domestic use, that no digging was undertaken when paving the garden and that previously an officer from the Council visited the site and gave no indication that planning permission was required.

3. Dealing first with ground (b), whether the breach as alleged has occurred, while at the time of my site visit there were no vehicles being stored on the site, it is clear from the information that is before me that there have previously been vehicles stored at the property. From the photographs that I have seen, there have been numerous vehicles within the boundaries of the property, and some do not appear to have number plates attached. The photographs depict a use of the site that is materially different in nature from the usual residential use of a dwelling and the parking of vehicles that would be expected. I am therefore satisfied that the cars were indeed being stored at the property and not in association with the residential use, thereby resulting in a mixed use of residential and storage.
4. However, despite the Council's contentions, there is nothing that demonstrates that the sale of vehicles has been taking place from the appeal site. I note the submission of Companies House documents which demonstrate that the appellant has a connection to a car sales business, but none of the information demonstrates that sales are taking place at the site. As such, the allegation as set out in the notice is incorrect and alleges a mixed use that is not taking place.
5. Under Section 176(1) of the Act, I have the power to correct the notice, provided that this does not cause injustice. In this case, such a correction would require changing the alleged breach of planning control to refer to a mixed use of a dwelling and storage, rather than a dwelling and the storage and sale of vehicles, together with a consequential change to requirement 1. I consider that I am able to correct the notice in this way without causing injustice. The appellant would experience no injustice as the allegation would be corrected to remove part of the allegation and so would not be put in any worse position. Likewise, the Council would not experience injustice as the unauthorised development that is actually taking place would be addressed.
6. In respect of the appeal on ground (c), that there has not been a breach of planning control, I note that the appellant sets out that the property has never been used for business purposes. However, as I set out above, from the evidence I have concluded that the use of the appeal site for the storage of vehicles of the nature and extent that is shown, goes beyond that which would be expected as a residential property, and is materially different in its nature from the normal parking of vehicles at a dwelling. Thus, a material change of use has occurred. There is nothing to suggest that such a change is permitted development, or that it benefits from any planning permission and therefore it is a breach of planning control.
7. Accordingly, the appeal on ground (c) fails, as a breach of planning control has taken place. However, the appeal on ground (b) succeeds in part in that I have found that the development as alleged in the notice has not, as a matter of fact, occurred. Despite this, it succeeds only to the extent that the notice is correctable. I set out the corrections in my decision.

### **Ground (f)**

8. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve the purpose. The purposes of an enforcement notice are set out in s173 of the Act and are to remedy a breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)). Since the notice requires the cessation of the use, removal of all motor vehicles and motor vehicle parts, as well as the removal of a hard surface, the purpose is clearly to remedy the breach.

9. The appellant contends that the hard surfacing to the rear of the dwelling was created without any digging taking place and that it was created with the purpose of making the garden more friendly for children to use. The appellant also undertakes to include facilities to improve drainage. Nonetheless, the hard surfacing of almost the entirety of the rear garden area of the property facilitates its use for the storage of vehicles. It is therefore part and parcel of the unauthorised development that has taken place, and its removal can be sought by the notice. Moreover, leaving any part of the development in place would not achieve the purpose of the notice and so the hardstanding should be removed.
10. For these reasons, the appeal on ground (f) does not succeed.

### **Other Matters**

11. There is reference in the appellant's grounds of appeal of visits being made to the property by Council officers where no indication was given that a breach of planning control has occurred. This is a matter separate to my consideration of the enforcement notice as issued and not one that influences my findings in respect of the issues above.

### **Conclusion**

12. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections.

### **FORMAL DECISION**

13. It is directed that the enforcement notice is corrected by:

- the deletion of

"Without planning permission, the material change of use from a dwelling to a mixed sui generis use as a dwelling and for the storage and sale of motor vehicles "

and the substitution thereof with

"Without planning permission, the material change of use from a dwelling to a mixed sui generis use as a dwelling and for the storage of motor vehicles"

in 3. THE BREACH OF PLANNING CONTROL ALLEGED;

and

- the deletion of

"1. Cease the use of the land for the storage or sales of motor vehicles"

and the substitution thereof with

"1. Cease the use of the land for the storage of motor vehicles"

in 5. WHAT YOU ARE REQUIRED TO DO.

14. Subject to the corrections, the appeal is dismissed and the enforcement notice is upheld.

*Martin Allen*      INSPECTOR