



Appeal Decision

by David Pinner BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 August 2012

Appeal Ref: APP/Q1445/C/12/2169597

130 Cowper Street, Hove, East Sussex, BN3 5BL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr R Raggio (R & R Developments) against an enforcement notice issued by Brighton & Hove City Council.
 - The notice was issued on 14 December 2011.
 - The breach of planning control as alleged in the notice is without planning permission, the change of use of the land from use for vehicle valeting to use for the repair and maintenance of motor vehicles (B2 use class).
 - The requirements of the notice are to cease the use of the property for the repair and maintenance of motor vehicles.
 - The period for compliance with the requirements is 1 month.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.
 - Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Procedural matters

2. The appeal is concerned only with the interpretation of the relevant planning law, which is not site-specific. It was therefore unnecessary for me to conduct a site inspection as this would have no bearing on my decision.

Ground (c)

3. The appeal on this ground is made on the basis that the use of the land for vehicle maintenance and repair is in the same Use Class, as described in the Town and Country Planning (Use Classes) Order 1987, as the lawful use of the land for vehicle valeting and there is therefore no requirement for planning permission to change from the one use to the other.
4. The Council's view is that vehicle valeting is a light industrial use that falls within Use Class B1, whereas vehicle repair and maintenance is a general industrial use falling within Class B2. The use for care repairs and maintenance is materially different to the use for car valeting, hence planning permission is required for the change of use. No such permission has been granted and so a breach of planning control has occurred.

5. Amongst other things, Article 2 of the Use Classes Order includes in the definition of "industrial process" repairing, maintaining, washing and cleaning of any article. On that basis it is clear that vehicle valeting, which involves washing and cleaning, is an industrial process. The repair and maintenance of motor vehicles is also an industrial process. Use Class B1(c) encompasses use for any industrial process that can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. Car valeting uses generally involve the use of power washers and vacuum cleaners, both of which are commonly used in domestic situations, but otherwise the work involved – cleaning, waxing and polishing etc. - is usually done by hand. It is a use that can be carried out in any residential area without detriment to the amenity of that area and would therefore be a use falling within Use Class B1.
6. Car repairs and maintenance generally involve a wide range of activities, some of which are quiet and others of which are noisy. For example, noisy activities would include the use of compressors, air tools, sanders, grinders and hammers. The revving of engines is a common and noisy activity associated with vehicle repairs and maintenance. If bodywork repairs are undertaken, this would involve hammering, sanding and refinishing. All of these processes would be detrimental to residential amenity if undertaken in a residential area because of noise, fumes and smell. I am in no doubt that vehicle repairs and maintenance are general industrial uses that fall squarely within Use Class B2.
7. Whilst the Town and Country Planning (General Permitted Development) Order 1995 as amended permits some changes of use, there is no such permission that allows a change from Use Class B1 to Use Class B2 general industrial use. The use of the premises for vehicle repairs and maintenance has involved a material change in use from the use of the premises for vehicle valeting. As no planning permission has been granted for this material change of use, a breach of planning control has occurred. The appeal on ground (c) therefore fails.
8. The appellant has made representations on a range of other matters including planning policy, scale of the business and absence of complaints from neighbours. These are matters that would be taken into consideration in deciding whether or not to grant planning permission. However, as the fee was not paid, there is no scope in this appeal for me to make such a decision and I cannot consider these planning merits arguments.

David C Pinner

Inspector