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## Appeal Decisions

Site visit made on 23 February 2022

by **B S Rogers BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 02 March 2022**

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**Appeal A Ref: APP/B3410/C/21/3274004**

**Appeal B Ref: APP/B3410/C/21/3274005**

**Septimus, 7 Castrum Court , Rocester, ST14 5PL**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. Appeal A is made by Mr Ian Bamford and Appeal B by Mrs Sally Bamford against an enforcement notice issued by East Staffordshire Borough Council.
  - The notice was issued on 26 April 2021.
  - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the Land from residential to a mixed use comprising of residential and commercial business for storage of cars for sale.
  - The requirements of the notice are: (a) permanently cease the use of the Land for the storage of motor vehicles for sale or repair, (b) remove all of the motor vehicles from the land which are not incidental, or ancillary, to the domestic residential use of the dwelling.
  - The period for compliance with the requirements is 14 days.
  - Appeal A is proceeding on the grounds set out in section 174(2)(a) & (b) of the Town and Country Planning Act 1990 as amended. Appeal B is proceeding on the ground set out in section 174(2)(b) of the Town and Country Planning Act 1990 as amended.
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### Decision

1. It is directed that the enforcement notice is corrected by replacing "cars" with "motor vehicles" in the alleged breach of planning control. Subject to this correction, both appeals A and B are dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### Preliminary matter

2. There is a discrepancy in the notice between the allegation and the requirements in that the former refers to "cars" and the latter to "motor vehicles". Having seen the representations, the latter appears to be more accurate and to be the common understanding in this case. Accordingly, I can correct the notice without injustice to the parties.

### The appeals on ground (b)

3. This ground of appeal is that that the breach of control alleged in the enforcement notice has not occurred as a matter of fact. Whilst the appellants submit that no sales or repairs take place and there is no advertising on site, they state that "Vehicles were never sold from the site but were indeed stored there." The submitted photographs indicate the parking of up to 8 motor vehicles on site; these appear from the Council's evidence to be offered for sale on-line. Even if the sales take place from another location, it appears that the

vehicles have been stored on the appeal site for the purpose of being sold. As such, the alleged breach has occurred as a matter of fact and the appeals on ground (b) fail.

### **Appeal A ground (a) and the deemed application**

4. It is clear from the Council's case that the notice which is the subject of this appeal only seeks to address the material change of use of the land. It does not address the engineering operations which were the subject of a retrospective planning application, refused by the Council on 22 July 2021 (Ref: P/2021/ 00476). I understand that these may be the subject of separate enforcement proceedings.
5. The main issues are the impact of the development on designated heritage assets and on the living conditions of neighbouring residents.
6. The appeal site comprises the appellant's dwelling and an adjoining area of land. It is located in the centre of Rocester within the scheduled ancient monument known as '*Site of Rocester Abbey and Part of Roman Town*'. The monument includes extensive buried archaeology and earthwork remains relating to two Roman forts and a civilian settlement and the site of the mediaeval abbey of Rocester. Part of the site is within the Rocester Conservation Area, of which the site of the former abbey and Roman town are at its heart. These are heritage assets of considerable significance.
7. Policy SP24 of the East Staffordshire Local Plan [ESLP] requires development to contribute positively to the area and reinforce character and identity. Policy SP25 requires development to protect, conserve and enhance heritage assets and their settings. This policy background is consistent with the advice in the National Planning Policy Framework [NPPF] which generally seeks to conserve and enhance the significance of heritage assets. Any harm to the significance of heritage assets requires clear and convincing justification and must be weighed against the public benefits of a proposal.
8. The open area on which the storage of vehicles is taking place has historically been undeveloped. The space is important in defining the western limit of the built development within the ancient monument, reflecting the historic shape of the former farmstead, which is now residential. The presence of stored vehicles in this area represents an undue visual intrusion into a significant open area within the scheduled ancient monument.
9. Similarly with regard to the Conservation Area, the site of the former abbey and Roman town are at its heart and the encroachment of motor vehicles onto the open area of the appeal site harms, rather than preserves or enhances, its character or appearance and in my view also harms its setting.
10. The development is clearly visible from adjacent dwellings in Castrum Court. At the time of my visit, it was also visible from adjacent roads and dwellings to the west of the site, albeit that the boundary hedge would offer considerable screening for much of the year. Whilst the harm can be seen as less than significant in NPPF terms, I have seen no evidence of any public benefits that might outweigh this harm. Any claimed need for additional parking for vehicles used for domestic purposes by the household is not a justification for the parking of motor vehicles for commercial purposes.

11. The Council has pointed out that St Michael's Church and The Old Rectory, to the east of the site, are Listed Buildings. However, they are at such a distance from the appeal site that the development appears to have little impact on their setting.
12. In conclusion on the first main issue, the development unduly harms the character, appearance and significance of important heritage assets, contrary to the aim of the development plan and national guidance. There is no public benefit sufficient to outweigh this harm.
13. Turning to the impact on the living conditions of neighbouring residents, Policy DP7 of the ESlP seeks to avoid development which harms the living conditions of neighbouring residents by way of noise and disturbance. The allegation is of the storage of motor vehicles and, as indicated above, up to 8 vehicles have been seen stored on the site. I have seen no evidence of sales taking place from the site and of potential purchasers visiting the site. As the essence of the use is storage, the number of vehicular movements per day is likely to be very low.
14. The appellant has pointed out that adjoining the site to the south is a car park serving a medical practice and a wood working business, both of which generate more noise and disturbance. In this context, I conclude that the additional noise and disturbance generated by the storage of up to 8 vehicles on the appeal site would not be unduly harmful.
15. Although I have found in the appellant's favour on the second main issue, this is heavily outweighed by my conclusion on the first main issue. Accordingly, the appeal on ground (a) and the deemed application must fail.

*B S Rogers*

INSPECTOR

Appendix 1

List of those who have appealed

<b>Reference</b>	<b>Case Reference</b>	<b>Appellant</b>
Appeal A	APP/B3410/C/21/3274004	Mr Ian Bamford
Appeal B	APP/B3410/C/21/3274005	mrs sally bamford