



Havering
LONDON BOROUGH

The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).

**Statement of the London Borough of Havering
(supplementary information)**

Site at: Site Address: 67 Butts Green Road, Hornchurch, RM11 2JS

LPA Ref: E0012.19

PINS Ref: APP/B5480/X/19/3239568

Appeal by Imperial Carriages Limited

1. Introduction

- 1.2 The Council is reliant on the case and the reasoned arguments set out within the Delegated Report with respect to the matters relating to this appeal. A copy of the Delegated Report was forwarded to the Inspectorate with the questionnaire together with extracts of the relevant consultation replies & copies of letters of representation.
- 1.3 This is an addendum report, deals with legal issues with respect to appeal proposal.

2. Legal Framework

- 2.1 Section 55 of the Town and Country Planning Act 1990 (“the 1990 Act”) defines “development” for the purposes of the 1990 Act to cover both operational development (i.e. building work) and material change of use. Section 57 provides that planning permission is normally required for any development of land. Under section 58, planning permission may be granted on application to a local planning authority or by way of a development order under the 1990 Act.
- 2.2 The Town and Country Planning (General Permitted Development) (England) Order 2015 has been created as part of a general policy objective to consolidate a number of statutory instruments in relation to town and country planning in England. The Order is made under sections 59, 60, 61, 74 and 333 of the 1990 Act. The 2015 Order (as amended) is made under these powers and grants planning permission for a range of predominantly minor development, subject to certain limitations and conditions. Development granted planning permission under the Order is known as “permitted development”, and the effect is that no application needs to be made to the local planning authority to obtain planning permission, although in some cases the permitted development right is subject

to “prior approval” from the local planning authority in relation certain specified matters.

2.3 The Town and Country Planning (Use Classes) (Amendment) (England) Order 2015 makes provision in respect of specified uses and transitional arrangements. The Town and Country Planning (Use Classes) Order 1987 specifies classes of use of buildings or other land for the purposes of section 55(2)(f) of the Town and Country Planning Act 1990. Section 55(2)(f) provides that a change of use is not to be taken as development where the former use and the new use are both within the same class as specified in an order. Changes of use which are not to be taken as development do not require planning permission.

2.4 Other pertinent legislation include section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against which the appeal has been made. And section 191(1)(a) of the Town and Country Planning Act 1990 as amended (“the 1990 Act”), under which the application was originally submitted to the council.

3. Assessment;

3.1 The council in its delegated report has clearly demonstrated that the current use of the land in question is primarily for the sale of motor vehicles. The Town and Country Planning Classes Order makes it clear the “hiring, selling and/or displaying motor vehicles” falls under the “sui generis”, class.

3.2 The use of the land for sale of car is materially different from the lawful use as ancillary car park associated with the main use of the building for offices.

3.3 Sui generis in planning term is used to categorise buildings that do not fall within any particular use class for the purposes of planning permission. Currently there is no permitted development rights for the change of use of the building or land to a car sales, under the above mentioned Act and Order.

4. Conclusion

- 4.1 For the reasons given above, it is concluded, on the available evidence, that the Council's refusal to grant a LDC in respect of the unauthorised use of the site which is for the sale of vehicles is well-founded and that the inspector is respectfully urged to dismiss the appeal.