



Appeal Decisions

Inquiry Held on 28 and 29 September 2021

Site visit made on 29 September 2021

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2021

Appeal A: APP/T5150/C/19/3225155

Appeal B: APP/T5150/C/19/3224161

Land at Stadium Business Centre, North End Road, Wembley, HA9 0AT

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr P Patel, Stadium Centre Management Ltd (Appeal A) and Mr Paul Naughton, Harvest Church London (Appeal B), against an enforcement notice issued by the Council of the London Borough of Brent.
- The enforcement notice was issued on 29 January 2019.
- The breach of planning control as alleged in the notice is Without planning permission, the material change of use from a mixed use comprising: offices, light industrial, place of worship/education/religious instruction, vehicle repairs, storage and distribution and wedding services to a mixed use comprising: offices, light industrial, place of worship/education/religious instruction, vehicle repairs, storage and distribution, wedding services and Wembley Stadium / Arena Event Day parking.
- The requirements of the notice are STEP 1 Permanently cease the use of the premises for Wembley/Arena Event Day Parking; STEP 2 Do not use the premises for car parking except for parking that is ancillary to the lawful use of the land/premises; STEP 3 Remove all vehicles from the premises, except those which are associated with the lawful uses of the land/premises; STEP 4 Remove all advertisements and signs associated with the unauthorised use; STEP 5 Remove all other items associated with the unauthorised use.
- The period for compliance with the requirements is 1 week.
- Appeal A is made on the grounds set out in section 174(2)(a), (d), (e) and (g) of the Town and Country Planning Act 1990 as amended.
- Appeal B is made on the grounds set out in section 174(2)(c) and (d) of the Town and Country Planning Act 1990 as amended.

Summary of Decisions: Appeal A is allowed following correction of the enforcement notice in the terms set out below in the Formal Decision. Appeal B does not need to be considered.

Appeal C: APP/T5150/C/19/3238234

Appeal D: APP/T5150/C/19/3238100

Land at Stadium Business Centre, North End Road, Wembley, HA9 0AT

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr P Patel, Stadium Centre Management Ltd (Appeal C) and Mr Paul Naughton, Harvest Church London (Appeal D) against an enforcement notice issued by the Council of the London Borough of Brent.
- The enforcement notice was issued on 23 August 2019.
- The breach of planning control as alleged in the notice is Without planning permission, the material change of use from a mixed use comprising: offices, light industrial, place of worship/education/religious instruction, vehicle repairs, storage and distribution and

wedding services to a mixed use comprising: offices, light industrial, place of worship/education/religious instruction, vehicle repairs, storage and distribution, wedding services and Wembley Event Day parking.

- The requirements of the notice are STEP 1 Permanently cease the use of the premises for Wembley Event Day Parking; STEP 2 Do not use the premises for car parking except for parking that is ancillary to the lawful use of the land/premises; STEP 3 Remove all vehicles from the premises, except those which are associated with the lawful uses of the land/premises; STEP 4 Remove all advertisements and signs associated with the unauthorised use; STEP 5 Remove all other items associated with the unauthorised use.
- The period for compliance with the requirements is 1 week.
- Appeal C is made on the grounds set out in section 174(2) (a), (d), (e) and (g) of the Town and Country Planning Act 1990 as amended.
- Appeal D is made on the ground set out in section 174(2)(d) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeals are dismissed and the enforcement notice is upheld with corrections and a variation in the terms set out below in the Formal Decision.

Preliminary Matters

The enforcement notices

1. The two notices that are the subject of the current appeals are similar in terms of the land areas affected. Essentially they relate to the access road and forecourt parking areas of units within the Stadium Business Centre (SBC). It was agreed at the Inquiry that the key differences between the notices are in the description of the alleged breach and subsequent requirements and between the notice plans which show some differentiation in the land affected.
2. The January 2019 notice alleges a mixed use including 'Wembley Stadium / Arena Event Day parking'. The second notice (August 2019) refers to the same mixed use, with the alleged breach differing only in terms of specifying 'Wembley Event Day Parking'.
3. With regard to the description of the breach the Council accepted at the Inquiry that the objective of both notices is specifically to eliminate parking in connection with events at Wembley Stadium. Mr Wicks conceded that the Council did not recognise events taking place at the Wembley Arena as causing the parking issue. I am satisfied that the notices may be corrected to reflect more accurately the breach of planning control, namely 'Wembley Stadium event day parking' and the consequent corresponding requirement for this to cease, without resulting in injustice.
4. Both notices require the site not be used for any parking that is not ancillary to the lawful use of the land and for any vehicles that do not accord with this to be removed. Because the notices do not go so far as to allege all types of parking that are not ancillary to the lawful use, only event related parking, it is only necessary to cease the use of the premises for stadium event parking, and to remove items associated with this, in order to remedy the breach. The requirements of the notices therefore go beyond what is necessary to remedy the breach as described. Accordingly the notices also need to be corrected in this regard. Again I am satisfied that this may be done without resulting in injustice.

5. With regard to the plans it was agreed between the parties that the plan relating to the latter notice differs from that on the former one in that it excludes small parcels of land to the front of Unit No 39 SBC and to the side / rear of the Harvest Church London, located at units 40-43 SBC.
6. The Council states that the second notice was issued following criticism of the first notice in terms of the absence of reference to land registry titles.

Whether the service of the notices benefit from the provisions of S171B(4)(b) of the Act

7. By way of background the appeal sites subject to the notices in this case were the subject of previous enforcement action initiated by the Council and which also involved two notices. In that case the notices were, following an appeal, found to be invalid by the Inspector at that time¹, as a consequence of which they were quashed. The basis of the invalidity finding was that the notices did not specify with sufficient clarity the land where the alleged breach of planning control was taking place or the owners taking part in the breach.
8. S171B(4)(b) of the Act allows for 'taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach'. It is the Council's case that the notices subject to the present appeals benefit from this so-called 'second bite' provision.
9. By contrast the appellants say that the notices subject to the present appeals are materially different from those dealt with by the previous Inspector. They say that the notices now identify a greater range of uses as part of the alleged mixed use and 'Wembley event parking' in contrast to 'parking that is not ancillary to the office / industrial use'. As such the notices should be regarded as new notices. It is apparent that the appeal site in relation to the previous notices was drawn more widely, incorporating additional land to the south east and south west.
10. The parties have referred me to various case law in this regard². In *Jarmain* it was determined that whether the second bite provision exists depends on the physical reality of the breach and whether the facts of the allegation are the same.
11. In *Fidler* the Court found that the notice was not a second bite notice as it was wider ranging and directed at additional facts. It did not simply describe more accurately what was previously mis-described.
12. In *Sanders* it was determined that the 'second bite' provisions do not apply where matters alleged in the second notice are less a misdescription, but more an accurate reflection of the range and nature of the uses or operations on the site at the times that the two notices were issued.
13. The previous Inspector recorded in his decision that "*The external car-parking areas are let out for public parking on occasions, mainly in connection with*

¹ Appeal Refs APP/T5150/C/17/3173767; APP/T5150/C/17/3187635; APP/T5150/C/17/3187629 & APP/T5150/C/17/3187634

² *Jarmain v SSETR & Welwyn Hatfield DC* [2000] EWCA Civ 126; *Fidler v FSS & Reigate and Banstead BC* [2004] EWCA Civ 1295; *Sanders & Sanders v FSS & Epping Forest DC* [2004] EWHC 1194 (Admin)

events at the nearby Wembley Stadium, and to a lesser extent, events at the Wembley Arena which is adjacent to the Stadium. It is this aspect of the use of the site that the Council seek to bring under control. For the purposes of these decisions I have referred to the form of parking enforced against as 'event parking'." He also recorded that the notices were deficient in not fully identifying the existing mixed use of the site.

14. It was therefore recognised that in essence the objective of the previous notices was the control of event parking. Despite the difference in wording between the allegations in the present notices, and the identification of additional uses making up the mixed use when compared with the previous notices, I am in no doubt that the concern of the present notices continues to be with the matter of event parking, as was identified by the previous Inspector. This remains the key constant factor between the situation now and the situation back then. The identification of additional uses within the mixed use does not alter this fact. The wording of the allegations in the present notices clarify that those uses were there before and are not the target of the notices. Rather the inclusion of reference to the uses responds to the criticism made by the previous Inspector, as referred to above.
15. I do not therefore agree with the appellants that the present notices are wider ranging and seeking to attack different or additional uses, but rather the matter of event parking such that the physical reality of the breach has not changed. I therefore consider this case to be consistent with the findings in *Jarmain* but distinct from those in *Fidler* and *Sanders*. Accordingly the present notices fall within the 'second bite' powers available to Councils under s171B(4)(b) of the Act.

The ground (c) appeal

16. Appeal B includes an appeal on ground (c) that there has not been a breach of planning control. For the avoidance of doubt the appellant confirmed at the Inquiry that this element of the appeal was solely based on his understanding that planning permission had been granted by the previous Inspector for event parking at the appeal site. However, whilst it is undisputed that the previous enforcement notices were quashed on the basis that they were found to be invalid, there is no evidence before me that planning permission has ever been granted for this use. Accordingly the suggestion that there has not been a breach of planning control on the basis that express planning permission has previously been granted is unfounded.
17. Within his opening statement, Mr Dave made vague reference to Part 4, Class B of the Town and Country Planning (General Permitted Development) Order 1995 (GPDO). However he did not expressly draw support for his case from the provisions of the GPDO. Now superseded by the 2015 version of the GPDO, Part 4 Class B allows for the temporary use of land subject to restrictions on the number of days in any calendar year (not more than 28 days). However this is subject to provisos including that the development must not be within the curtilage of a building. There is a lack of information to persuade me that this proviso would be met; the appellant does not argue that it would be. Mr Dave goes on to state that "...Wembley Stadium had less than 12 events from March 2007 leading up to May 2018." The point being made here is unclear, as from the appellants' own evidence it appears that significantly more events were held at Wembley Stadium over this time period.

I therefore conclude that references made to the GPDO do not take the ground (c) appeal any further, and for the avoidance of doubt insofar as it may also be regarded as relevant to the surviving notice, this ground must fail.

The Oath

18. At the Inquiry all oral evidence was given on oath.

Appeal A on ground (e)

19. This ground of appeal is that copies of the enforcement notice were not served as required by s172 of the Act. S 172(2) of the Act requires that the notice be served on owners, occupiers and any one with an interest in the land subject to the notice. Appeal A relates to the first of the two notices³.
20. The appellant's evidence contained a witness statement from the occupier of Units 33 and 34 of the SBC. The forecourt areas to these units are included within the land identified on the plan as affected by the alleged breach. The author of the statement refers to the fact that he was only served with the latter notice and not the former one. The witness was not available to attend the Inquiry to enable his evidence to be further scrutinised. Notwithstanding this it is apparent from the appellant's evidence bundle that the Council accepted that Units 33 and 34 had not been served with the notice and that it would arrange "for the notice to be sent to them"⁴.
21. I am not persuaded from the information before me that, on the balance of probability, the occupiers of the aforementioned units would have had the opportunity to appeal against the notice and that as such they would not have been prejudiced by these circumstances. The appeal therefore succeeds on ground (e).

Appeal C on ground (e)

22. As set out above, the ground of appeal is that copies of the enforcement notice were not served as required by s172 of the Act. S 172(2) of the Act requires that notice be served on owners, occupiers and anyone with an interest in the land subject to the notice. Appeal C relates to the second of the two notices⁵.
23. From evidence provided before and during the Inquiry, it is clear that the appeal site includes the forecourt areas of units, associated parking places and the access road circulating around the SBC. The buildings associated with the SBC estate are divided into separate units, which together with their associated forecourt areas are each within separate freehold ownership. The communal access road serving the estate is owned by Stadium Centre Management Ltd (SCM).
24. It would appear from the Council's evidence that it gathered information from land registry records and the response to a Planning Contravention Notice regarding the identity of unit owners and occupiers and whether they participated in the event parking scheme. Copies of the notice were sent by recorded delivery as well as being posted by hand and being affixed at various places on the site. At the Inquiry, none of the appellant's witnesses identified

³ The enforcement notice dated 29 January 2019

⁴ See Council email dated 20 March 2019 (Appellant's bundle p. 172)

⁵ The enforcement notice dated 23 August 2019

- anyone that they considered would have been prejudiced by a failure to serve the notice.
25. Turning to the findings of the previous Inspector, it seems to me that there are key features which distinguish the current notice. Firstly areas included within the previous notices at the adjacent Wembley Business Centre (WBC) and associated with units 44, 45 and 46 SBC, and in relation to which there were concerns as to whether those with an interest in that land had been properly served, have been omitted from the present notice.
26. Concerns were raised previously about the likelihood of fenced off parts of the site being used for event parking. However in this case neither the appellant nor his witnesses said that any of the parties served with, and associated with the land covered by, the notice had never taken part in the scheme. In fact from the evidence provided, including the responses to the planning contravention notice, it seems to me that there is close communication and collaboration between SCM and the unit freeholders to ensure the site is cleared so far as practicable in readiness for the arrival of customers on event days. Also a concession was made at the Inquiry by Mr Dave that the occupiers of the fenced areas in question, at Units 33 and 34 SBC, have occasionally in the past participated in event parking.
27. When compared with the previous invalid notices the Council has taken steps to more accurately include the range of uses that are subject to the mixed use, distinguishing those which it considers do not form part of the alleged breach. Furthermore it appears to me that the notice largely identifies and links the location of, and those with an interest in, specific freehold areas of the site. The exception appears to be the identity of the unit holder of No 37 SBC. However notwithstanding this I am satisfied from the evidence before me that the Council has taken steps to separately serve anyone with an interest in each of the relevant SBC units.
28. Whilst the appellant has referred to the exclusion of a martial arts centre from the description of the mixed use present on the site, it was conceded at the Inquiry that this may only have commenced after the enforcement notice was served.
29. The crux of the appellant's concerns is that the notice has been served on some parties whose land is not covered by the notice as depicted on the plan, notably in relation to the adjoining WBC; moreover that individual unit holders may be held responsible for event parking on the wider appeal site when such parking may not have actually been taking place on their specific properties. The appellant says that the problems identified by the previous Inspector and which led to the Notices being found invalid at that time have not been addressed.
30. I am satisfied that the address and physical extent of the appeal site has been identified in the case of this notice. I consider that it would have been clear to recipients of the notice that the notice was targeting event day parking alleged to be taking place on the areas highlighted in yellow. As a result, I am satisfied that the service of the notice on any parties that do not have an interest in the subject land could not result in prejudice. It is undisputed that the adjoining WBC does not form part of the appeal site and as such this

obviates the concern expressed by the appellant that the WBC should be correctly referred to as the Wembley Park Business Centre.

31. Furthermore I concur with the Council that in order to successfully prosecute the notice it would need to produce evidence of those involved in the breach. This would be expected to include evidence that distinguished the parking as related to a stadium event such that it was not simply ancillary parking related to the lawful use of a unit. The owner or occupier of a unit could not therefore be prosecuted where the use of that unit did not conflict with the requirements of the notice.
32. I acknowledge that the previous Inspector raised concerns about the risk of a prosecution drawing in innocent parties who may not be involved in event parking. However I consider that the identification in the notice of specific freehold areas, and those with an interest in those areas, would assist the Council in relating parts of the site where any breach of the notice might occur in the future to the specific parties responsible for that breach.
33. Overall I consider, as a matter of fact and degree, that sufficient steps have been taken to address previous concerns. For the reasons set out above I conclude that copies of the enforcement notice were served as required by s172 of the Act and I do not concur with the appellant that the notice is defective or invalid. The ground (e) appeal fails.

Appeals C and D on ground (d)

34. The ground of appeal is that at the date when the notice was issued, no enforcement action could be taken. In order to succeed on this ground it would normally be necessary for the appellants to show, on the balance of probability, that the use of the appeal site for the alleged use had commenced at least 10 years before the notice was issued and that it had continued in such use over this period.
35. However I have concluded that the notice issued in this case benefits from the provisions of S171B(4)(b) of the Act. This allows for 'taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach'.
36. The first of the notices relating to the Council's purported enforcement action, which was the subject of the previous appeals as referred to above, was issued on 8 March 2017. This is during the four year period ending with the issue date of the enforcement notice subject to the present appeals. Consequently the appellants would need to show, on the balance of probability, that the use of the appeal site for Wembley Stadium event parking had commenced at least 10 years before that date, that is by 8 March 2007 and that it had continued in such use over this period.
37. There is no dispute that the original stadium was closed on 7 October 2000, after which it was demolished to make way for redevelopment. The new stadium was then officially reopened on 19 May 2007.
38. For the Council Mr Wicks accepted under cross examination, that the evidence of event parking provided by the appellants demonstrated, on the balance of

probability, the continuity of such use over the period 2008 to 2018. He accepted that had it not been for the 'second bite' provisions then this would have led to the ground (d) appeal succeeding. I concur with this position. Mr Wicks appeared to go further in his closing submissions by accepting that the use had continued from or after 19 May 2007, when the stadium was re-opened. However he stated that prior to this date the evidence was anything but precise and unambiguous.

39. As set out above the key benchmark date for immunity considerations is 8 March 2007. There is a lack of evidence to persuade me that the appeal site was being used for Wembley Stadium event parking between this time and when the stadium officially reopened some two months later. I am unable to reach the conclusion, from the evidence before me, that the material change of use to the alleged mixed use occurred prior to 19 May 2007. The ground (d) appeals therefore fail.
40. The appellants have referred to parking taking place within the SBC in relation to events other than at Wembley Stadium and such parking having continued since before March 2007. Reference was made to parking previously taking place in connection with events at Wembley Arena and the local Sunday market. Several of the witnesses recalled parking there themselves with a view to attending events with their families. Mr Patel also recalled customers of a local restaurant using the site and Mr Dave a wedding event prior to 2005.
41. Reference was also made to parking on the site being managed by a Mr Buckel prior to SCM becoming involved⁶. Mr Naughton confirmed in evidence that he purchased units 40-43 in 2007. He said, in cross examination, that during a conversation with Mr Buckel in June 2007 he had been told about parking taking place in connection with the Arena and the Sunday market (20-30 cars). The witness statement of Mr Sanjay Shah referred to most of the centre being used as a car park for events from 1996 onwards. Mr Kaushik Shah referred to the centre being used as a private car park with public access "for well over 15 years". The witness statement of Vinod Bhandari referred to the use of the estate as a private car park with public access since 1996.
42. However, notwithstanding the above and having regard to the accounts information provided, I concur with the Council that details of the nature, regularity and timing of parking at the site prior to the re-opening of Wembley Stadium are not precise and unambiguous. The information is not sufficient to enable me to conclude, on the balance of probability, that parking was of a scale and intensity such that a material change of use of the site to include event car parking has continued there from around or before March 2007.
43. Therefore even if I had not modified the notice to exclude event parking other than that associated with Wembley Stadium, the ground (d) appeal would still not have succeeded.
44. The appellants have referred to two appeal decisions in relation to which the ground (d) appeals were successful and which they consider are supportive of the present case⁷. I have had regard to those decisions, however both cases involved allegations of non-ancillary parking and not just parking in connection

⁶ The witness statement of Sanjay Shah refers to SCM taking "total control over the parking" in mid 2007

⁷ Appeal refs APP/T5150/C/17/3175131 & APP/T5150/C/17/3173442.

with Wembley events. Furthermore it seems to me that in both cases more detailed evidence was presented in support of the ground (d) appeal. The circumstances of those appeals are therefore distinguishable from the circumstances of the appeal currently before me.

Appeal C on ground (a)

45. The ground (a) appeal is that planning permission should be granted.

Main Issues

46. The main issues are the effect of the development on i) the control of car parking in the area; ii) the living conditions of local residents with particular regard to noise, disturbance and demand for on street parking; iii) highway and pedestrian safety and iv) air quality.

Reasons

Control of Car Parking

47. The Council's car parking strategy is set out as part of Policy CP7 of the Brent Core Strategy 2010 (CS), Policies DMP1 and DMP12 of the Brent Development Management Policies Document 2016 (DMPD) and the Wembley Area Action Plan 2015 (WAAP). Collectively these policies identify the Wembley Growth Area as a key driver of economic regeneration in Brent and aim to encourage the use of more sustainable modes of transport for events and to reduce congestion on the highway network. Following the redevelopment of the stadium, dedicated parking capacity has been reduced to 2900 spaces compared with 7200 spaces previously. The Council identifies event day contract parking as undermining the objectives of limiting parking.
48. The appellant has made a number of submissions in support of the appeals. He says that event day parking on the appeal site is negligible in the context of existing levels of traffic and comings and goings associated within the estate and the wider area; that the scheme provides a more affordable option for secure car parking, particularly for those travelling from outside London and also helps to relieve congestion on public transport and that it assists those with limited mobility in terms of avoiding over-crowded trains.
49. It is also argued that the site benefits from good connectivity with the wider major road network, with the North Circular Road A406 a relatively short distance to the east and accessible without having to encroach into residential areas. Furthermore, because of the timing of event parking it does not conflict with the parking requirements of local businesses situated on the estate.
50. I have no reason to doubt that the site is a relatively short distance from the North Circular Road nor that the development does not lead to conflicts with business users on the estate. I also accept that the WAAP recognises that restrained car accessibility to the area in general is a valuable part of the transport mix. However, the appellant does not seek to argue that the event day parking conforms with the strategy of significantly reducing the number of car parking spaces in connection with Wembley Stadium, and I am not persuaded that the provision of that parking would be key to supporting the growth of the local economy.

51. It is undisputed that the development could result in up to 150 vehicles associated with event day parking being accommodated on the site, albeit that the appellant says that the site is rarely used at anywhere close to full capacity for event parking. I concur with the reasoning expressed by my colleague in that bringing additional vehicles onto a congested road network harms the ability of local residents and businesses to move around and harms the objective of managing the amount of parking and protecting the movement network in the Wembley Growth Area⁸. The fact that this form of contract parking may be occurring in other nearby locations for whatever reason, does not make the development in this case acceptable. Nor do existing parking patterns on the estate, resulting from the lawful uses taking place there, serve to justify the development.
52. I am not persuaded that reducing the availability of car parking close to the stadium will make travel there less affordable. For example for those travelling longer distances, it seems to me that it would not prevent some of that journey still being completed by car.
53. Furthermore, the evidence before me does not suggest that a journey by public transport to an event at the Stadium will be made significantly more difficult for a person with a mobility impairment. Whilst I acknowledge that travel by public transport may be very busy and perhaps less convenient and comfortable for those undertaking the journey, I do not consider that this outweighs the importance of shifting to more sustainable travel, particularly in light of the national policy move to a low carbon economy.
54. In evidence Mr Naughton described the collaboration between estate occupiers resulting in a good community project. Whilst I accept that the project is by its nature inclusive, relying on the co-operation of the many parties with an interest in the estate, I do not see the project as being consistent with the Council's broader community strategy of managing event day parking.
55. I conclude that the development results in harm to the Council's strategy of controlling car parking in the area. I therefore find conflict with Policies CP7, DMP1 and DMP12, with the WAAP and also with National Planning Policy Framework (the Framework) insofar as they seek to promote the use of sustainable travel and to limit future car use.
56. The appellant referred to support for the development, within the Framework, in the context of responding to the needs of the leisure industry. However this does not necessarily mean providing more car parking, particularly when key aspects of Framework policy are about moving to a low carbon economy and promoting sustainable transport.

The Living Conditions of local residents

57. Having parked at the SBC site the likely walking route to and from the stadium for event goers would be via North End Road, in relation to which there is a pedestrian link at the western end of the SBC estate. The Council is concerned that boisterous behaviour from event goers would give rise to disturbance to residents along North End Road and Empire Court.

⁸ See appeal ref APP/T5150/C/17/3174155

58. The Council confirmed at the Inquiry that it was not aware of any specific complaints from local residents in this regard. The use of this walking route to and from the stadium would take place over a relatively short duration and on a limited number of days in connection with events. When also considering the increased level of activity more generally on event days, and therefore the likelihood of a degree of disturbance in the area not specifically associated with the appeal site, I am not persuaded from the evidence that there would be harm to living conditions in this regard.
59. It is not clear from the evidence how event parking at the appeal site would result in increased on-street parking in general. This concern does not therefore attract any weight. I therefore conclude that the development does not result in harm to the living conditions of local residents with particular regard to noise, disturbance and demand for on street parking. Accordingly the development is not in conflict with Policies DMP1 and DMP12 of the DMPD or with the Framework insofar as they seek to prevent increased exposure to noise and general disturbance.

Highway and Pedestrian safety

60. Other than the reference to increased congestion, the Council has not elaborated as to why it considers that the additional traffic generated by the development results in harm to highway and pedestrian safety. There is no information before me such as records of accidents having occurred or risks of collisions between vehicles and pedestrians. I do not therefore find conflict with the WAAP or with Policy DMP1 of the DMPD in this regard.

Air Quality

61. The Council says that the development would lead to a deterioration of the existing poor air quality and that accordingly this would be in conflict with Policy SI 1 of the London Plan 2021 insofar as it seeks to resist this trend.
62. Whilst this may be the case, there is no evidence before me to establish whether the level of car parking specifically associated with the alleged use would result in any material harm to air quality. Accordingly I do not therefore find a policy conflict in this regard.

Ground (a) appeal conclusion

63. I have not found harm in terms of the living conditions of local residents, highway and pedestrian safety or air quality. I also acknowledge that funds generated by the scheme have apparently been used to finance the upkeep of the SBC estate. However these factors do not overcome the conclusion that the development would be at odds with the Council's car parking strategy for the Wembley Growth Area. Whilst I acknowledge the value of maintaining the SBC estate, for security, practical and visual reasons, I consider the Council's approach to event day parking has greater strategic significance. Planning permission should not therefore be granted and accordingly the ground (a) appeal fails.

Appeal C on ground (g)

64. The appeal is that the time allowed to comply with the notice is too short. The appellant refers to inconvenience resulting from the fact that bookings are commonly taken several weeks in advance.
65. The appellant has not provided any evidence of contractual obligations or funding commitments. Furthermore I must take into account the planning harm that I have identified. However I agree that, in this case, allowing only one week for compliance with the notice would be likely to result in a disproportionate amount of inconvenience both to the company operating the event parking scheme and to their clientele.
66. I consider that extending the compliance period to one month would allow sufficient time for notice to be given to allow customers to make alternative arrangements. The ground (g) appeal succeeds to this limited extent.

Conclusions

Appeals A and B

67. On the balance of probabilities, the appeal on ground (e) should succeed in respect of those matters which, following the correction of the notice, are stated as constituting the breach of planning control. The enforcement notice will be corrected and quashed. In these circumstances, the appeals on grounds (a), (c), (d) and (g) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended do not need to be considered.

Appeals C and D

68. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with corrections and a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decisions

Appeals A and B

69. It is directed that the enforcement notice be corrected by deleting the wording “/ Arena” in Schedule 2.
70. Subject to the above correction Appeal A is allowed and the enforcement notice is quashed. Appeal B does not therefore need to be considered.

Appeals C and D

71. It is directed that the enforcement notice be corrected by adding the word “Stadium” between the words “Wembley and “Event” in Schedule 2; and by the deletion of Steps 1 to 3 in Schedule 4 of the notice and their replacement with the wording “Permanently cease the use of the premises for Wembley Stadium Event Day Parking and remove all vehicles associated with the unauthorised use from the site.”

72. It is directed that the enforcement notice be varied by deleting the words "1 week" in Schedule 5 and substituting the words "1 month" instead.
73. Subject to the above corrections and variation the appeals are dismissed and the enforcement notice is upheld. With regard to Appeal C, planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Roy Merrett

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Bharat Dave acting as advocate and witness

He called:

Paul Naughton	Appellant, Harvest Church London
Hitesh Singara	Bookkeeper for SCM
Vijay Kumar	Principal of Stadium Wembley Parking
Kaushik Shah	Owner of Unit 24 SBC
Pravin Patel	Appellant and Owner of Unit 26 SBC

FOR THE LOCAL PLANNING AUTHORITY:

Nigel Wicks	Director of Enforcement Services Ltd, acting as advocate and witness for Brent Borough Council
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Documents Submitted at the Inquiry:

1. Appeal Decision APP/T5150/C/19/3239488.
2. Various case law: Jarmain v SSETR & Welwyn Hatfield DC [2000] EWCA Civ 126; Fidler v FSS & Reigate and Banstead BC [2004] EWCA Civ 1295; Sanders & Sanders v FSS & Epping Forest DC [2004] EWHC 1194 (Admin); Suburban Property Investment Limited v SSCLG & Another [2011] EWCA Civ 112; Howells v SSCLG [2009] EWHC 2757 (Admin); Latif v SSHCLG & LB Brent [2018] EWHC 4070 (Admin).