



Appeal Decision

Hearing Held on 6 August and 31 October 2024

Site visit made on 31 October 2024

by Roy Curnow MA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2025

Appeal Ref: APP/T5150/C/23/3329378

Ex Unisys, Brentfield, London, NW10 0RG

- 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 Prezemyslaw (Peter) Zalecki against an enforcement notice issued by the Council of the London Borough of Brent ('the Notice').
 - The enforcement notice, numbered E/23/0172, was issued on 7 August 2023.
 - The breach of planning control as alleged in the notice is Without planning permission, the material change of use of the premises to a waste transfer site, tyre fitting, and vehicle storage, parking and sales.
 - The requirements of the notice are: Step 1 - Cease the use of the premises as a waste transfer site, and tyre fitting, and vehicle storage, parking and sales; and Step 2 - Remove all vehicles, tyres, car parts, skips, storage containers, waste, debris, and other materials, items and equipment associated with the unauthorised use from the premises.
 - The period for compliance with the requirements is 2 weeks.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (e), (f) and (g) of the Town and Country Planning Act 1990 as amended ('the Act').
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Decision

1. It is directed that the enforcement notice is corrected and varied by:

In Schedule 2 of the Notice, 'The alleged breach of planning control', inserting the words "mixed use of" between the words "...the material change of use of the premises to a..." and the words "...waste transfer site...".

In Schedule 4 of the Notice, 'What you are required to do to remedy the breach of planning control':

Omit Steps 1 and 2 in their entirety and replacing them with:

"Step 1 - Cease the use of the premises as a waste transfer site;

Step 2 - Remove all vehicles, tyres, car parts, skips, storage containers, waste, debris, and other materials, items and equipment associated with the unauthorised waste transfer use from the premises;

Step 3 - Cease the use of the premises for tyre fitting, vehicle storage, vehicle parking and vehicle sales and remove all vehicles, tyres, car parts, skips, storage containers, waste, debris, and other materials, items and equipment associated with these unauthorised uses from the premises"; and

by the deletion of the time for compliance in Schedule 5 of the Notice and the substitution of: two weeks for compliance with Step 1; 2 months for Step 2; and 12 months for compliance with Step 3.

Subject to the variations, the appeal is 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.

Application for costs

2. At the Hearing an application for costs was made by the Council of the London Borough of Brent against Mr Przemyslaw Zalecki. This application is the subject of a separate Decision.

The Notice

3. In the Hearing, I set out that it appeared to me that what was alleged was the mixed use of the land, although the Notice did not actually state this. The parties agreed that this was their understanding of the allegation and were of the view that the allegation could be corrected without prejudice. This, too, is my view and I shall correct the Notice accordingly.
4. In his Grounds of Appeal, under the heading of 'Null or invalid enforcement notice', the Appellant opined that the Notice was "defective and erroneous". The reason he gave for this was that the allegation did not refer to the pre-existing use of the land. In support of his position that the Notice was defective, he referred to an enforcement notice that had been previously issued by the Council in respect of the land. In this, the allegation began "The change of use of the premises from an office to..." (my emphasis).
5. There is no requirement for an enforcement notice to recite the previous use of the land, though, as the Council acknowledged in the Hearing, it is useful where this is done, as it clarifies why an authority considers there to be a material change of use ('mcu') of land.
6. An enforcement notice should tell a recipient fairly what they have done wrong, what must be done to remedy it, and the time frame for doing so. When issuing a notice alleging a mixed use of land, the allegation should recite all of the uses even if the notice did not require all of them to cease.
7. Subject to the correction, I find that the Notice clearly told its recipients what the breach of planning control was, what needed to be done to remedy it and the time frame in which this had to be done. It is neither a nullity nor invalid.

Ground (e)

8. An appeal made under Ground (e) is that copies of the Notice were not served as required by section 172 of the Act. This is a legal ground of appeal where the onus lies with the Appellant to make his case on the balance of probability.
9. S172(2) of the Act states that "A copy of an enforcement notice shall be served—(a) on the owner and on the occupier of the land to which it relates; and (b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice". Section 329 of the Act sets out how any notice or other document required or

authorised to be served under the Act may be served. An “interest in the land” connotes a legal or equitable interest, such as a mortgage or the benefit of a covenant.

10. The Appellant’s case is that a number of individuals or companies were not served with copies of the Notice. This claim, if substantiated, falls to be tested against the terms of s176(5) of the Act, which states “Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him” (my emphasis).
11. In his Grounds of Appeal (‘GoA’), the Appellant referred to 10 companies that he said had not been served with a copy of the Notice. His GoA provided online links to Vehicle Operating Licensing information on the ‘Gov.UK’ website for these companies. In addition, shortly before the Hearing he submitted 10 letters from companies and individuals operating, I was told, from the Unisys site that had not been notified of the appeal.
12. All of the above, he said, were substantially prejudiced by the Council’s actions. They could have put individual cases forward under Grounds (a) (f) and (g) that might have differed from those put forward by the Appellant but reflected their particular circumstances.
13. The Council did not serve a Planning Contravention Notice (‘PCN’) or a Requisition for Information, using its powers under ss171C and 330, respectively, before it issued the Notice. However, it did serve PCNs on the Appellant and Landowner after having done so.
14. The Council said its Officers had visited the site following the receipt of complaints and noted the mixed use of the site that is alleged in the Notice. They had also spoken with the Appellant, a point he did not dispute. On the strength of this, the Council felt that it had sufficient information on which to issue and serve the Notice.
15. It submitted a Certificate of Service showing that it served copies of the Notice by hand to “The Owner/Occupier/Anyone with an Interest in the Land”, the Company Secretary and Mr Zalecki of Parking Wembley, two named persons of the Landowner company and its Company Secretary, one each to the Company Secretary/Manager for Transport for London (‘TfL’) at two separate addresses, and a named recipient at General Mediterranean Holdings SA (‘GMH’) at a London address.
16. In addition, photographs showed what the Council told me were copies of the Notice served at the site, all of which were in envelopes. One was on the access gate with another in an envelope in the post box on that gate, one was affixed to the windscreen of a lorry with ‘SWM’ signwriting on it, one on a parked car, and one on a parked van that had no advertising. These were addressed to The Owner/Occupier/Anyone with an Interest in the Land.
17. There are two tests in s172(b): that a person or company has an interest in the land and that they are materially affected by the Notice. Should the former test not be met, there is no reason to proceed to the second one. Following an

- application of the tests in s172(2), the Notices would have to be served in the manner prescribed in subsections (1) and (2) of s329.
18. The Council's position was that those persons and companies referred to by the Appellant did not have an interest in the land. In this regard, it submitted a copy of a lease¹ between the Owner of the land, Stonebridge Real Estate Development Ltd and Parking Wembley Ltd. The signature of the representative of the Landowner, marked as a 'Director', and that and the address details of the witness were redacted. There was no signature from the representative of Parking Wembley Ltd, but its Director was listed as Przemyslaw Zalecki. During discussions centred on this lease, the Council told me that the Appellant and that Director were the same person. They told me that during discussions with the Landowning company, this lease had been signed by the Appellant. Neither of these points was disputed by the Appellant at the Hearing.
 19. My attention was drawn to sections of the lease that relate to 'underletting', this being, essentially, sub-letting of the land by the lessee. This is not forbidden by the terms of the lease, but any such action by the lessee has to be agreed in writing by the Landowner. When I asked him about this, Mr Zalecki acknowledged the terms of the lease and stated that there had been "verbal agreement upwards" to the Landowner with written formal agreements with those to whom he sub-let use of the land.
 20. To my mind, the evidence shows that the 10 companies operating from the site referred to in the Appellant's SOC did not have an interest in the manner required by s329. This, likewise, applies to those companies that were the subject of the letters submitted by the Appellant.
 21. However, even if I am wrong on this, the Council's actions in clearly placing copies of the Notice on the land fulfilled its service obligations. Furthermore, even though they were aware of the appeal, no representative of any of those companies attended the Hearing. Had they done so, they would have been able to make oral representations to it.
 22. The Appellant referred to *Price and Ball v South Cambridgeshire District Council* [2024] EWHC238 (Admin) in which the claimants sought permission to challenge the action of that Council in serving copies of an enforcement notice. The claimants were given permission to proceed, but I have not been told of the outcome. However, given my findings, above, I need not take the matter further.
 23. I cannot dispute the Appellant's point that, had the Council used its powers to gather information in ss171C or 330, a 'belt and braces' approach as he described it, it would have been helpful. The Council agreed with this. In any event, for the reasons that I give above, I find that copies of the Notice were served in accordance with the requirements of ss172 and 329. The appeal under Ground (e) fails.

Ground (c)

24. An appeal under Ground (c) is that the matters alleged in the Notice do not amount to a breach of planning control. In this legal ground, the onus lies with the Appellant to make his case on the balance of probability.

¹ Appendix 3 to the Council's Statement of Case

25. The Appellant's case is that, given the "baseline permitted use of the site" no breach arises from the parking of vehicles. His case was predicated on their being a lawful use of the land, setting the "baseline" use as he put it. To illustrate his point, he said that as the lawful use of the land was as an office or a hotel, then there would be ancillary or incidental parking on the land. This, he said, would not be materially different to the manner in which vehicles were kept on the site. The case of *Crawley BC v Hickmet Limited* [1998] was cited in respect of these arguments.
26. The Council's position is that, due to the way in which the land has been used historically, it has a 'nil' use.
27. I have not been told when the two large buildings on the land were erected, but the agreed history shows that an application was made for, amongst other things, their conversion to a hotel. A further permission for this form of development was granted in 2002, with details pursuant to that decision approved in 2008. There is no evidence before me to show that, on the balance of probability, the 2002 permission was lawfully commenced.
28. In 2002 enforcement and stop notices were issued against 'The change of use of the premises from an office to a market and the widening of the access way to the premises and the erection of "Harris" fencing.' The enforcement notice was appealed against (PINS reference APP/T5150/C/14/2219590). The appeal had limited success, the fencing was given temporary planning permission and the requirements to erect a wall and gates were removed. Notwithstanding the corrections and variations, the notice was upheld.
29. In that appeal, the Inspector was told that the site had not been in use as offices since the mid-1990s. No evidence has been put before me to show that this was incorrect, nor that there had been a resumption of the office use after the issuing of that appeal decision.
30. Section 57 of the Act sets out that planning permission is required for development, and the exceptions to this general rule. Its subsection (4) states that "where an enforcement notice has been issued in respect of any development of land, planning permission is not required for its use for the purpose for which (in accordance with the provisions of this Part of this Act) it could lawfully have been used if that development had not been carried out." S57(4) does not, however, provide for the resumption of a past lawful use when there has been one or more intervening unlawful uses between that and the current unlawful use. This is the case here, and I find that the land has a nil use.
31. As was put forward by the Appellant in the Hearing, his case rests on whether the land has a lawful use. It does not. Therefore, there could be no parking of vehicles for purposes ancillary or incidental to the use of the land for offices. The parking of vehicles on the land would introduce a new use that would require planning permission. As such, the Ground (c) case fails.

Ground (a) and the Deemed Planning Application

32. An appeal made under Ground (a) is that planning permission should be granted for the development that is alleged in the Notice.

Site Description

33. The appeal relates to an area of land, which the parties agreed might be described as a 'gateway site', that lies a short distance to the southeast of the commercial centre of Stonebridge Park. Between the two, at a lower level, runs the extremely busy North Circular Road. It is bounded to the northeast by the very busy A404, known here as Brentfield; to the southeast by community uses that includes a leisure centre; and to the southwest by railway lines.
34. There are two crescent-shaped, seven-storey buildings on the northern part of the site. These are the buildings that I referred to, above, that had been used as offices and were the beneficiaries of the planning permission for use as a hotel. For the most part, save for containers and other small buildings and structures, the land is not built on.
35. Access to the site, for both vehicles and pedestrians, is at the southeastern end of the site's Brentfield frontage.
36. The nearest residential development is found on the opposite side of Brentfield. Further residential development is found to the south of what I have called the community uses.
37. When I visited, some of the uses that are alleged in the Notice were being run from the ground floors of the two former office buildings. Apart from these uses, the buildings appeared unused and had a poor external appearance. Much of the area around the buildings was taken by parked or stored vehicles, containers and external storage of materials and goods associated with the uses alleged in the Notice.
38. The waste transfer business referred to in the Notice was being run from land towards the south-western corner of the site: in the area between the rear of the large buildings, the railway line and the leisure centre.

Main Issues

39. The main issues are:

- Whether this is an appropriate location for the development in the light of development plan policies and other material considerations;
- The effect of the development on the living conditions of occupants of neighbouring properties and the prospects of developing the land for residential purposes, having regard to noise, dust, pollution, light pollution and odours;
- The effect of the development on the character and appearance of the area; and
- The effect of the development on highway safety.

Appropriate location

40. I have found that the site does not have a lawful use. That is to say, it has a 'nil use'. It is quite clearly previously developed land in a sustainable location; as such, there is a presumption in favour of development, so long as that development did not result in material harm.

41. The land that is the subject of the Notice forms part of a larger area of land, running between Brentfield and the railway lines, that is allocated for a mixed-use development in Policy BSSA7 of the Brent Local Plan 2019-2041, adopted February 2022 ('BLP'). The allocated uses include a new leisure centre, hotel, offices, small scale commercial and community uses and in the order of 505 dwellings on the site.
42. The evidence presented showed that the redevelopment of this land, in this or a similar manner, had been an aim of the Council for a considerable time. Even though discussions had recently been opened with developers, with discussions with the site's owners going on for some time, its redevelopment is still likely to be at least a few years away.
43. At the time of the Hearing, a written ministerial statement² and a draft revision of the National Planning Policy Framework ('the Framework') stressed the importance that the Government attached to the provision of housing. Their contents were largely included in the latest iteration of the Framework. In the Hearing, although it could meet the 5-year housing land supply, the Council told me that there was a pressing need for housing to be provided in the Borough. This was especially acute, it said, in respect of affordable housing.
44. Given that it is likely to provide a significant number of dwellings, allied to the increased importance given to the provision of housing by Government, I attach great weight to protecting the land for its use in accordance with BLP Policy BSSA7. This is the case, notwithstanding that this has been an unfulfilled aim of the Council for some time.
45. This has to be balanced against the benefits that arise from the Appellant's mixed use of the land. In this respect, the Appellant gave particular, though not exclusive, emphasis to the waste transfer activities carried out on the land.
46. The Appellant drew my attention to the Government aims in the Framework to provide a strong, competitive economy. He pointed to its requirements for policies to be flexible enough to respond to changes in economic circumstances and to pay particular regard to, amongst others, the freight and logistics sectors, which he said included the waste use on the site.
47. I do not find the latter point to be the case, as waste transfer activities are wholly different from freight and logistics even though they rely on lorries to deliver the waste. However, that there are benefits from commercial activity to the economy is not disputed.
48. The Council's waste policy is set out in the West London Waste Plan, adopted July 2015 ('WLWP'). Although it is set above the BLP in a table in the BLP, describing 'Planning Policy Hierarchy' for the Borough, this does not denote that the WLWP has primacy over the BLP. They are both amongst the documents making up the development plan that address different issues and share equal weight.
49. The WLWP is a document that jointly addresses waste issues in Brent and 5 other boroughs of West London, as well as those of the Old Oak and Park Royal Development Corporation. The constituent councils and development corporation worked collaboratively to create the WLWP. Its Policy WLWP1 states that, to 2031, there is a need for an additional annual waste

² 30 July 2024

- management capacity of 614,000 tonnes. This, it says, is to be delivered on sites identified in Policy WLWP 2.
50. That policy sets out that existing waste management sites will be protected for the continuation of this use. However, this only applies to lawfully permitted sites, so does not apply to the appeal site. The continuation of the waste activities on the site falls to be determined under the terms of Policy WLWP 3, 'Location of Waste Development'. It supports the principle of waste development on sites not identified in Policy WLWP 2, subject to provisos.
51. The Appellant opined that there was an onus on both those proposing waste developments and the Council to provide the required information to support an application. That is not what the policy says, however. The Council can, it said, provide assistance but it is for those proposing the use of Policy WLWP 3 sites to demonstrate: that the development cannot be delivered at existing sites; that there will be a shortfall in provision; and that there is no adverse effect on the community. Policy WLWP 4 lists 15 requirements that need to be met to ensure that any development is of the required high quality. These cover a range of issues, including effects on an area's residents, transport, flooding and pollution.
52. Here, the Appellant did not provide any empirical evidence of need for the waste facility on the appeal site. He says that the facility serves local contractors and deals with waste that arises locally. He also did not think that there were alternatives to this site. These, and the claim that as there will be more housing and other development that will lead to increased waste flows, is not sufficient to demonstrate that the activity carried out on the appeal site cannot be delivered at existing sites. In response to the last point, the Council referred to the terms of Policy S17 that seek to reduce waste arising from development; although I did not receive a copy of this, it was not countered by the Appellant.
53. The Appellant agreed with the need to provide housing, but, in his view, the situation in the 'real world' is that the delivery of the Policy BSSA7 development will be some way into the future. He said that, were the mixed use to be found to be wrong on a permanent basis, it would be a sensible interim use, pending the development of the site in line with the Council's planning policies.
54. In support of this position, the Appellant referred to 100 people being employed at the site and the benefits that this has for the local economy. The Council doubted that as many people as this were employed at the site. It said that its Officers had never seen that number of people on the site at their visits. For his part, the Appellant ran through the various companies on the land with estimates of the numbers of people they employ. It seemed to me that the figure was likely to be something of an over-estimate. However, I accept that firms operating at the site provide employment for a considerable number of people. I find that the Council's position, that far fewer people were employed at the site, based on its visits, might be skewed downwards as a good proportion might well be driving vehicles to and from it. Therefore, I give significant weight to the number of people employed on the site.
55. In the light of the above, I find that granting planning permission for the permanent use of the land would be contrary to BLP Policy BSSA7 and would cause significant harm to the Council's development strategy for the Borough.

To my mind, this harm is not outweighed by the benefits arising from the employment opportunity the use brings.

56. I shall address the question of allowing the use to continue on a temporary basis following an assessment of the other Main Issues.

Living conditions

Noise

57. The Council identified the occupants of housing on the opposite side of Brentfield as those whose living conditions were affected by activities on the site. However, it acknowledged that it had not undertaken any noise readings at the site, and its actions were based on its Officers' visits to the site and a complaint from a local councillor. As the Appellant stated, there is no reference to noise generation in the third-party complaints that were submitted to the Hearing.
58. Before the Hearing, I assessed the site alone from public vantage points including the adjacent leisure centre. At the formal site visit, I assessed this from both inside and outside the site. The noise arising from the plant on the waste transfer site was audible from public land, as was the noise from lorries entering using the site. I was also well aware of the noise arising from the railway line to the rear of the site, as well as that from traffic on Brentfield and the North Circular Road. However, my visits were merely 'snapshots' in time and cannot, alone, be used to determine whether planning permission should be granted.
59. Paragraph 3.13.10 of the supporting text to LP Policy D14 'Noise' provides guidance on the approach to be taken in respect of gauging the effects of noise generation. It states, "Noise and other impact assessments accompanying planning applications should be carefully tailored to local circumstances and be fit for purpose". That indicates to me that where a development is proposed that will be likely to generate noise there is a requirement for the person proposing that development to submit a noise impact assessment. No such assessment was submitted by the Appellant.
60. Such an assessment would be used to inform decisions made in respect of the assessment criteria in Policy D14. As paragraph 3.13.10 puts it, "That way, the particular characteristics of existing uses" [and those proposed] "can be properly captured and assessed". That there are no comments from third parties cannot justify the lack of a noise impact assessment. Proper assessment is required of noise emanating from uses on site, taking into account its lawful use, if any, other noise generators in the area and noise sensitive receptors. This is not a matter that should be addressed after the event, through the use of a condition.
61. Given the ill-effects that can be felt by communities from noise pollution, I must follow the line advocated by LP Policy D14 and its preamble. I have no doubt that the waste transfer use, in particular, is one that could generate noise that might have an adverse effect on the locality and its residents' quality of life. In the absence of the required survey work that would properly inform my decision, I find that the mixed-use of the site is contrary to the terms of LP Policy D14. It is also contrary to BLP DMP 1 that, amongst other things, seeks to preclude development from unacceptably increasing noise generation.

Dust

62. The evidence, including that of my site visit, shows that the use of the site, in particular the waste transfer facility, leads to the formation of a lot of mud on parts of the site. This is transferred across the site by way of vehicle movements. When the mud dries, it generates dust; as has also been the case when muddy puddles in the highway outside the site dried out. This was not contested by the Appellant.
63. Although the Council provided no evidence to show how this dust caused harm to residents' living conditions, I am aware of the terms of BLP Policy BSU12. This, when read in conjunction with that Plan's paragraph 3.13.10, places a requirement on an applicant to provide an impact assessment relating to air quality. This approach is broadly that taken in Policy SI 1 of the London Plan, March 2021 ('LP'). I find that dust generation falls to be considered under air quality and in this case, where it has been shown that considerable amounts of dust can be generated, such an assessment should have been undertaken but was not.
64. The ill-effects arising from poor air quality are well-known and, in the circumstances, it is important that the approach advocated by the BLP and LP are followed. Again, it is not an issue that should be addressed after the event, by way of condition, given the potential for on-going ill-effects to living conditions. In the absence of the required survey work, I find that the proposed development does not accord with the terms of LP Policy SI 1 and BLP Policy BSU12 that seek, at the very least, to maintain air quality at the standard before that development commences.

Contamination

65. In its second reason for issuing the Notice, the Council raises its concern that the unauthorised use could cause "further contamination of the land" and that this would make it more difficult to ensure that it remains suitable for housing.
66. Given the importance of developing the land in the manner set out in BLP Policy BSSA7, I can understand its concerns. These mainly related to the use of the land for waste transfer purposes.
67. For his part, the Appellant set out that only inert material was brought to the site and this would not be polluting. However, a table of uses undertaken on the land and their potential consequences in his SoC sets out that there is the potential for pollution but that this could be controlled through conditions. I was also told that the majority of the site is hard surfaced, and that this was the case where the waste transfer business operates; thus no pollutants could leak into the ground. I did see that while the majority of the site is hard surfaced, the concrete was subject to some considerable cracking. These could allow pollutants to leach into the soil. Furthermore, because of mud, plant, machinery, skips and the like, I could not see the nature of the surface where the waste operations were undertaken.
68. It is possible that conditions might be used to control the effects arising from pollution. However, this is a matter that, in the manner of paragraph 3.10.13 of the BLP, should have been subject to thorough assessment prior to the activities commencing or, at the very least, before being assessed in this Hearing. Again, it is not an issue that should be addressed after the event, by

way of condition, given the potential for on-going ill-effects to the environment and the future prospects of developing the land.

69. I was not told of a policy that specifically refers to pollution, in the manner of those that I refer to in respect of noise and dust, above. Notwithstanding this, given the importance of protecting the environment and safeguarding the development prospects of this gateway site, I find that a precautionary approach is necessary in respect of the waste transfer use. Therefore, this should not be approved.
70. From the evidence put before me, I find that the other uses that occur at the site would not result in pollution of the land that might lead to harming the prospects of developing it for residential purposes.

Odours

71. There is no specific policy need for an odour assessment to be undertaken in the policies that I was provided with. The only evidence of odour generation brought forward by the Council was that of photograph 2 of Appendix 7 to its Statement of Case ('SoC'). It said that this showed evidence of household waste being brought to the site, and that this caused odour nuisance.
72. Whilst, amongst other things, there are plastic bin bags in the photograph, it is impossible to tell what was in them. For his part, the Appellant said that no household waste was brought to the site. The household waste that is collected by 'Best Clearance', a company that brings waste to the appeal site, was taken to a facility in Wembley.
73. Although, again, a snapshot in time, I saw no evidence of household waste at my site visit; nor did I experience any foul smells.
74. From the evidence, I find that the use of the land has not generated odours that have diminished the living conditions of the area's residents, nor people in the area more generally.

Light pollution

75. Although it brought no evidence forward to show that the use of the site led to light pollution, the Council said that there was potential for this to occur. The Appellant did not counter this. However, as the Council stated that this was a matter that might easily be controlled through condition, a point with which the Appellant agreed, there was little discussion on the matter at the Hearing. I agree that this is a matter that, were planning permission to be granted, might be controlled through condition.

Character and appearance

76. The arguments relating to the effects of the development on the character of the area have been addressed in the comments on environmental impacts, above.
77. Viewing the site from Brentfield, which is the main public vantage point, one sees a fairly large number of vehicles parked on the site. Although these are, to a degree, seemingly parked haphazardly, they do not cause harm to the area's appearance. From this vantage point, one cannot readily see the tyre-fitting activities which are screened by parked vehicles, nor the waste transfer use at

the rear of the site. Whilst vehicles accessing those businesses are seen, they cause no ill-effects no this very busy street scene.

78. One can see the waste transfer operations from land around the leisure centre, which appeared to be public land. However, given its backdrop of railway lines at a higher level, I did not find this to be harmful to the area's appearance. Thus, the use of the land does not harm the appearance of the area and accords with BLP Policy DMP1 and the Framework.

Highway safety

79. There are two gates from the site onto Brentfield. They lie adjacent to one another, at the southeastern end of the Brentfield frontage. A length of roughly 2m high steel palisade fencing, similar to that running the length of the Brentfield frontage, runs back into the site between the gates. In the past, this separated traffic using the two gates.
80. Brentfield is a very busy road. At the southeastern end of the site's road frontage, the road has two lanes: a single, unrestricted carriageway and a bus lane. As one travels north-westwards, this changes to three lanes: one being a slip road to the North Circular Road, with the other two crossing that road and running towards Wembley. A footway runs along the site's frontage.
81. Northbound and southbound traffic along Brentfield in front of the site is, for the most part, physically separated. The exception is a gap that allows vehicles exiting the site to turn to the right towards the centre of London, and for southbound traffic on Brentfield to turn into the site. The gap also allows vehicles leaving Conduit Way, a residential street on the other side of Brentfield from the site, to make a right turn to access the North Circular Road or go towards Wembley. Traffic moving in both directions on Brentfield is required to keep the carriageways clear to allow these manoeuvres to occur. Both sides of the road have double yellow lines along them, to prevent parked vehicles affecting traffic flow and highway safety. It is a stretch of highway where all of its users need to take special care.
82. The Notice identified two aspects of the use of the land that would adversely affect highway safety: the layout of the site; and the deposition of dirt and dust onto the highway. It referred to BLP Policy DMP1 that requires developments not to adversely impact on movements on the highway, and Policy BT3 that, amongst other things, requires optimum delivery arrangements for all developments. Neither party addressed these points in their written submissions.
83. In the Hearing, the Council made the point that the southernmost gate onto Brentfield was locked out of use and vehicles were parked behind it within the site. The two gates, it said, originally allowed for a one-way system within the site. Whilst wide enough for cars to pass without trouble, it did not appear to be wide enough for the larger vehicles visiting the site, such as those bringing waste in, to pass one another. It was easy to see how this could lead to vehicles seeking to enter the site having to wait on the carriageway, causing an obstruction to other vehicles. Given the nature of the road and the volume of traffic, such an obstruction would be harmful to highway safety. I could envisage this happening even with the presence of a banksman within the site.

84. I saw a person who appeared to be acting in this role, but whose physical position did not allow him to see vehicles approaching the site. Thus, they would have been unable to stop exiting vehicles blocking their entrance, leading to vehicles waiting on the carriageway.
85. The Appellant made the case that this could be overcome by a condition requiring the second gate to be used and the provision of a one-way system within the site. Whilst the Council was of the view that this could not be conditioned, it did not explain why.
86. I find that it would be straightforward to condition the opening up of the other gate, together with the removal of obstructing vehicles and materials. This would allow the gates to be used on an 'in' and 'out' basis which would, to my mind, address the Council's concerns. Its terms could, furthermore, be enacted swiftly.
87. In the Hearing, the Appellant did not dispute that large puddles had previously formed around blocked highway drains outside the site and as they dried out it left mud and dust on the highway. Nor did he dispute that the use of the site contributed to this. He said that wheels were now cleaned by a pressure washer on the site and that the drains had been cleared by the Council, so the problem no longer occurred.
88. I am of the view that wheel washing facilities could also be conditioned, and this would be likely to overcome the problem. However, should it arise again, the deposition of material from a site that could lead to unsafe highway conditions is a matter that can be addressed by the local highway authority using other legislation.
89. As the problems regarding the access and material on the highway can be resolved, I find that the development accords with the terms of BLP Policies DMP1 and BT3.

Conclusion on Ground (a)

90. Although I acknowledge the importance of the employment that is generated by the site, I have found that it does not outweigh the harm that a permanent permission would cause to the Council's strategic plans for the area. I have found that some of the matters raised by the Council in its reasons for issuing the Notice could be overcome by the use of conditions, others could not. Planning policy is clear on these matters, survey work is required to show that there would be no ill-effects to living conditions and the environment before planning permission could be granted.
91. For the reasons that I have given, above, the Ground (a) case is dismissed.

Ground (f)

92. An appeal made under Ground (f) is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control alleged in the Notice or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. In this case, the purpose of the Notice is to remedy the breach of planning control.

93. The thrust of the Appellant's case is that the wording of the Notice infers a less intensive use of the site would be acceptable. Thus, he says, the continued use of the site, subject to conditions controlling the intensity of the use would be acceptable. I do not agree; the purpose of the Notice is clearly to remedy the breach of planning control.
94. My reasoning as to why the waste transfer use should not be perpetuated is set out, above. The use of the site for the other uses attacked by the Notice might continue without undue harm to living conditions and the environment more generally. However, granting planning permission for the would be likely to significantly undermine the Council's aims redevelop the land. The importance of this to the Council and community was proven in the Council's submissions.
95. Although the plans for redevelopment are moving forward, they are at an early stage. The Appellant's submission that, given the lack of environmental harm arising from them and the benefits arising from the employment generated, allowing these uses to continue rather than having the site lie empty carries some weight. I find that it would be appropriate to allow those uses to continue temporarily for 12 months; though I shall do so by extending the period for compliance under Ground (g).
96. For the above reasons, the Ground (f) appeal has limited success.

Ground (g)

97. An appeal made under Ground (g) is that the time for compliance with the requirements of the Notice falls short of what should reasonably be allowed.
98. The Appellant made the case that there were a number of different businesses on site and it was important that they were able to maintain economic activity. They would not be able to do so within the two-week period given in the Notice, which was unreasonably short. He requested a minimum compliance period of 18 months.
99. In his SoC, the Appellant said that he would "provide evidence of the lack of sustainably located sites in the area". No substantive evidence was given, and none of the individual operators attended the Hearing to give evidence of this.
100. For its part, the Council said that, if the Ground (f) were successful, a maximum of 6 months should be allowed. Its reasoning was the on-going harm to living conditions and that no justification had been provided for such an extension of the compliance period.
101. Whilst no compelling evidence for the requested extension of the compliance period was given, I can appreciate that it would be difficult for the businesses to find alternative premises from which to operate within a fortnight. This could be damaging to their futures, and have knock-on effects on for their employees. In the circumstances, I find that it would be reasonable to extend the period for compliance for the tyre-fitters, vehicle storage, vehicle parking and vehicle sales uses on the land.

However, no substantive case has been made for the 18 months sought. I shall vary the time for compliance in accordance with my findings in Ground (f).

102. I do not include the waste transfer station within this extension of the period for compliance. Given the lack of information regarding such issues as noise generation and air quality, I find that I must take a precautionary approach to protect living conditions in the area. I will uphold the terms of the Notice in its regard. However, given the amount of plant and equipment on the land associated with the waste use, I find it reasonable to provide a two-month period for this to be removed.

103. I shall, therefore, vary the terms of the period for compliance in the manner discussed above and, to this extent, the Ground (g) succeeds.

Conclusion

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

Roy Curnow

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr Phil Rowe	Planning Agent
Mr Prezemyslaw Zalecki	The Appellant

FOR THE COUNCIL FOR THE LB BRENT:

Nigel Wicks	Planning Consultant
Tom Wicks	Planning Consultant
Ross Coulter	Planning Enforcement Officer
Hilary Seaton	Planning Officer

DOCUMENTS

- 1 *Price and Ball v South Cambridgeshire DC* [2024] EWHC 238 (Admin)
- 2 Traffic Commissioners for Great Britain - Decision for MTM Skip Hire Limited and Prezemyslaw Zalecki
- 3 West London Waste Plan Policies WLWP 1 and 2
- 4 Brent Local Plan 2019-2041 – Policies BT3 and BE2
- 5 *Crawley BC v Hickmet Limited* [1998]