



Appeal Decision

Site visit made on 23 April 2025¹

by **A U Ghafoor BSc (Hons) MA MRTPI ACMI fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 28th April 2025

Appeal Ref: APP/T5150/C/23/3329811

537 High Road Wembley HA0 2DJ²

- 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 “1990 Act”).
- The appeal is made by Mr Suthakaran Kaneshalingm against an enforcement notice issued by the Council of the London Borough of Brent.
- The enforcement notice was issued on 14 August 2023.
- The breach of planning control as alleged is the erection of a front canopy extension.
- The requirements of the enforcement notice are to 1) demolish the front canopy extension and restore the shopfront back to its original condition before the unauthorised development took place and 2) remove all debris and items, arising from that demolition, and remove all materials associated with the unauthorised development.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (d) and (f) of the 1990 Act. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Decision

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

Ground (d)

2. The onus is squarely on the appellant to show that, operational development involved in the erection of a front canopy extension were substantially completed on or before 14 August 2019. Firstly, the planning merits of the development, including the need for the canopy and the layout of the street, has nothing to do with this ground of appeal. Had the appellant pleaded ground (a) and paid the relevant fee, these matters could have been considered. Therefore, many of the arguments advanced, including those from interested party, relate to why planning permission should be granted but these are irrelevant to this ground (d) appeal.
3. The front canopy extends over forecourt and provides covered space where goods are displayed for retail purposes. The appellant states that the use of the forecourt for trading associated with the retail units has been in continuous use November 2017, but the notice relates to operational development. The evidence presented does not clearly show when building work involved in the erection of the front canopy extension were substantially completed as there is no detail showing how or when the work began. There is no documentary evidence showing sequence of the events.
4. In contrast, the quantum of the Council’s evidence casts significant doubt over the veracity of the immunity claims. For example, the June 2019 Google Street View image shows a

¹ As the site is clearly visible from public viewpoints and confirmed as such by the appellant’s appeal form, I conducted an unaccompanied site visit.

² The appeal address is taken from the appeal form, but the issued enforcement notice describes the premises as all units, Anna Bazaar, 537 and Anglo Asian Cash & Carry, 539 (539A) High Road.

retractable awning over the forecourt, which is present in the December 2020 image. By June 2021, building work had taken place resulting in the erection of a fixed canopy with supporting columns and frames. The June 2023 image shows the installation of a small structure to the left-hand side of the frontage.

5. Taken in the round, I find that the evidence presented does not unambiguously and precisely show that the operational development involved in the creation of a front canopy extension were substantially completed on or before the relevant date. The alleged matters are not immune from enforcement action due to the passage of time. The onus has not been discharged, and ground (d) must fail.

Ground (f)

6. The issued notice clearly seeks to remedy the breach of planning control, which falls within purposes explained in s173(4)(a) of the 1990 Act. As I have already set out above, planning merits of any alternative scheme cannot be considered because there is no deemed planning application before me. There is no obvious alternative to achieve the purpose behind the steps and no lesser steps have been properly advanced. The breach of planning controls can only be remedied by the steps required and they are not excessive. Ground (f) must fail.

Overall conclusions

7. I conclude that the appeal against the enforcement notice fails on ground (d) and (f) and the enforcement notice is upheld.

A U Ghafoor

INSPECTOR