



Appeal Decision

Site visit made on 23 May 2025

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th June 2025

Appeal Ref: APP/T5150/C/24/3346828

71 Scarle Road, Wembley HA0 4SS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act).
- The appeal is made by Fahad Rehman against an enforcement notice issued by the Council of the London Borough of Brent.
- The notice was issued on 29 April 2024.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use of the premises to a mixed use as residential and a car park for the storage of motor vehicles and parts. ('the unauthorised change of use').
- The requirements of the notice are to:
 - Step 1 Cease the use as a car park for the storage of motor vehicles and parts.
 - Step 2 Remove all motor vehicles, parts, machinery, tools and equipment associated with the unauthorised use from the premises.
 - Step 3 Restore the front garden to its previous condition prior to the unauthorised change of use, as shown in 'Image A' attached to this Notice.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(e) and (f) of the Act

Decision

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

Appeal on ground (e)

2. An appeal on ground (e) is a claim that a copy of the enforcement notice was not properly served as required by section 172(2) of the Act.
3. Section 172(2) provides that a copy of the notice shall be served on the owner and occupier of the land to which it relates, and any other person having an interest in the land which, in the opinion of the Council, is materially affected. It is for the Council to decide who is materially affected by the notice, but it runs the risk of the notice being quashed if it exercises its discretion incorrectly.
4. The appellant claims that the enforcement notice was not received by anyone residing at the appeal property and that no enforcement officer was at the property to deliver the enforcement notice. Nevertheless, the appellant must have been aware of the enforcement notice in some form, in order to be able to submit this appeal against the notice.
5. The Council states that the persons listed on the Land Registry as having an interest in the land were served a notice. Appendix 3 of the Council's statement of case includes photos of the enforcement notices being delivered and posted to the appeal property as well as details of those persons that were served the notice. The Council also state that a telephone conversation between the appellant and

Council representatives took place after the enforcement notices had been issued, and removal of vehicles were discussed in this call.

6. The appellant has not identified any other persons as owners, occupiers, or with an interest in the land who were not served with a copy of the notice, or how they may have been materially affected by the notice, or how any such parties or the appellants themselves have been substantially prejudiced by any failure of service.
7. As such, I am unable to find that there has been a failure of service resulting in substantial prejudice to any party. Consequently, even if there was a failure to properly serve the notice, I would disregard the failure in accordance with section 176(5) of the Act.
8. The appeal on ground (e) therefore fails.

Appeal on ground (f)

9. An appeal on ground (f) is that requirements of the notice exceed what is necessary in order to remedy the breach of planning control or, as the case may be, the injury to amenity that is caused by the breach. In this case the requirements seek the cessation of the unauthorised use, the removal of all items and the reinstatement of the site to its previous state. The requirements are therefore to remedy the breach of planning control.
10. The appellant considers the requirements to be excessive. The appellant details that the work involved with the requirements would make the front area of the site a construction site, that would create problems for members of the household, some old and young and some with mobility issues. Whilst the works required to restore the garden to its previous condition would create a period of unsettlement, this would only be for a limited time. It is also considered that temporary provisions could be put in place whilst the garden is being restored to its previous condition, that would ensure that there are safe and accessible routes to enable family members to access the property. The appellant also raises concerns with regards to affordability of complying with the requirements, however, no specific details have been provided in terms of the appellants finances or the costs of reinstating the land back to its previous condition.
11. Given that in respect of the breach of planning control the notice requirements are to cease the unauthorised use, remove all items and reinstate the land to its previous state, it is clear that the requirements clearly go no further than remedying the breach. Anything less than the requirements detailed in the notice would not fully remedy the breach.
12. The requirements are not excessive and the appeal on ground (f) fails.

Conclusion

13. For the reasons given above, I conclude that the appeal should fail on grounds (e) and (f), and the appeal is dismissed and the enforcement notice should be upheld.

Chris Baxter

INSPECTOR