



Appeal Decisions

Site visit made on 3 June 2025

by **Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 July 2025

Appeal A Ref: APP/T5150/C/24/3345588

The Broadway, 53 Cricklewood Broadway, London NW2 3JX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Nathaniel Williamson against an enforcement notice issued by the Council of the London Borough of Brent.
- The notice was issued on 16 May 2024.
- The breach of planning control as alleged in the notice is: *Without planning permission, the installation of a recessed shop front, including new signage, windows and door to form a recessed seating area and entrance.*
- The requirements of the notice are:
STEP 1 Remove the recessed shopfront, including signage, windows and door from the premises, and install a shopfront which matches the design of the original as shown in the photograph attached to this notice, ensuring the entrance is level, and wide enough, to allow entry for wheelchair users.
STEP 2 Remove all items, debris and materials, resulting from compliance with the above step, from the premises.
- The period for compliance with the requirements is: *4 months after this notice takes effect.*
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (b) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Formal Decision: The appeal is dismissed, and the enforcement notice is upheld subject to the correction and variation in the terms set out in the Formal Decision below.

Appeal B Ref: APP/T5150/W/24/3345450

The Broadway, 53 Cricklewood Broadway, London NW2 3JX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Nathaniel Williamson against the decision of the Council of the London Borough of Brent.
- The application Ref is 24/0216.
- The development proposed is described as change of use of premises from DIY shop (Use Class Sui Generis) to a sandwich bar to serve pre-cooked food and drink (Use Class E(b)), alterations to shopfront, alterations to signage, recessed doorway/entrance, insertion of side window and other internal reconfiguration to ground floor unit.

Summary of Formal Decision: The appeal is dismissed

Formal Decisions

Appeal A

1. It is directed that the enforcement notice (EN) be corrected and varied by:
 - i) Deleting the second reason for issuing the notice as set out in Schedule 3 of the EN.
 - ii) Deleting the second part of Step 1 of the requirements as set out in Schedule 4 of the EN to read as follows:

“Remove the recessed shopfront, including signage, windows and door from the premises, and install a shopfront which is similar to the design of the original as shown in the photograph attached to this notice.”

2. Subject to the correction and variation 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 Town and Country Planning Act 1990 as amended (the 1990 Act).

Appeal B

3. The appeal is dismissed.

Preliminary Matters

4. In regard to Appeal B, the Council has offered no objections to the change of use having occurred. I see no reason to disagree with this assessment.
5. The Council reviewed its conservation areas pursuant to powers under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). Following consultations the Mapesbury Conservation Area (MCA) was extended on 28 May 2024, after the EN was issued by the Council, to incorporate part of Cricklewood Broadway, which includes the appeal site. Under section 72(1) of the Act there is a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
6. Consequently, the Council highlight that policy BHC1 of the Brent Local Plan 2019-2041 (BLP), adopted February 2022 and policy HC1 of the London Plan (LP), adopted March 2021 should be taken into consideration as part of the appeal. The appellants have had the opportunity to comment on these policies.
7. I have also considered the comments put forward by the appellants at the appeal stage in respect of ground (f), i.e. that the steps required by the notice exceed what is necessary to remedy any breach of planning control which may be constituted by those matters. Section 173(3) of the 1990 Act makes it clear that the EN shall specify the steps required to be taken or activities required to cease in order to achieve, wholly or partly, any of the purposes set out in section 173(4), in order to remedy the breach of planning control or remedy any injury to amenity.
8. Thus, the starting point in such an appeal is identifying the purpose of the EN. In this appeal case the EN is directed at remedying the breach of planning control, as the requirements in the first part of Step 1 set out in Schedule 4 of the EN clearly require the removal of the shopfront including the signage and recessed doorway/entrance. However, the second part of Step 1 requires an alteration to provide level entrance, wide enough to allow entry for wheelchair users.
9. From the evidence before me, like many of the other premises in Cricklewood Broadway the access does not appear to be level originally, given the slope in topography along the road. Consequently, this requirement would be considered an improvement to the land. There is no provision for an EN to require additional improvements to the land, even if the result is that compliance with the EN would mean the building does not meet other requirements secured under other legislation such as Building Regulations. As such, it would be for the appellants to carry out any improvements needed, seeking any relevant planning permission where necessary.

10. Given the second part of Step 1 of the requirements goes beyond the removal of operational development necessary to remedy the breach identified, under the provisions of section 176(1)(b) of the 1990 Act, I shall vary the EN to modify its requirements. The parties have had the opportunity to comment on this, and thus I am satisfied that no injustice would be caused by varying the EN as set out in my formal decision above. Consequently, I do not need to consider the appeal under ground (f) and the second reason for refusal under ground (a).
11. I have also amended the description of development under Appeal B and removed the superfluous wording “retrospective application for the retention” as these are not necessary here. I am again satisfied that no injustice would be caused by doing so.

Appeal A on ground (b)

12. An appeal under ground (b) is made on the basis that the matters alleged in the notice as constituting a breach of planning control have not occurred, as a matter of fact. In a legal ground of appeal, the burden of proof is firmly on the appellant to make their case, on the balance of probabilities.
13. Despite appealing under ground (b) the appellant acknowledges that the development has been constructed without the benefit of formal planning permission. Consequently, the development is unauthorised. The appellant sought retrospective planning permission for the development through a Section 73A application¹, which was refused and is the subject of Appeal B. As the breach of planning control had occurred on the date of issue of the EN, the appeal under ground (b) accordingly must fail.

Appeal A on ground (a), the deemed planning application, and Appeal B

Main Issues

14. Ground (a) is that planning permission should be granted for the matters alleged in the EN. I have dealt with this ground of appeal, insofar as I intend to vary and correct the notice. Therefore, the main issues are the effects of the development on the character and appearance of the shopfront and whether it would preserve or enhance the MCA.

Reasons

Character and appearance and impact on the MCA

15. I have a statutory duty under Section 72(1) of the Act to pay special attention to the desirability of preserving or enhancing the character or appearance of the MCA.
16. The National Planning Policy Framework (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 212 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be.

¹ London Borough of Brent Planning Ref: 24/0216

Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.

17. The significance of the MCA is principally derived from its traditional historic core, largely as it remains unaltered. Its turn of the century town houses are of high quality and have intricate architectural details, with the later inter-war developments sharing similar architectural quality and integrating well. The Mapesbury estate plays a vital role in providing an established open and spacious character to the area.
18. When originally designated the properties outside the western boundary of the MCA were considered 'generally undistinguished,' with the properties located in Cricklewood Broadway considered entirely separate from the domestic architecture of the Mapesbury estate. However, the expansion of the MCA sought to protect the architectural character on the edge of the Mapesbury estate. This included the incorporation of the properties in Cricklewood Broadway into the MCA as these properties retained the same character and style and formed part of the same history and development of the area.
19. The appeal site is located within a short Victorian terrace (Nos 45-55 odd) of six houses set back from the road with their front gardens infilled to create shops. These properties pre-date Cricklewood Broadway and were constructed in London stock brick with stucco dressings. Whilst the residential properties at the upper floor level are set back and are not as tall or prominent as their neighbours, the premises at the ground floor continue the commercial presence of Cricklewood Broadway, albeit the appeal site and adjoining property at No 55 are set back further exposing part of the flank wall at No 51. The appeal proposal consists of alterations to the shopfront and signage, insertion of a side window and other internal reconfiguration to the ground floor unit and also contains a recessed shopfront, providing an area for patrons to sit outside.
20. During my site visit I noted several establishments with various paraphernalia such as chairs, tables and seating areas along the roadside allowing for al fresco uses. However, the provision of a recessed shopfront at the appeal site appeared as an isolated development and not in keeping with the style of the host building and the wider streetscene which generally consist of an established line of shops fronting the roadside. Given the set back of the original building, the recessed part of the shop front further exacerbates this conspicuous feature to the detriment of the area and the MCA.
21. This would be contrary to the guidance contained in the London Borough of Brent Shopfronts Supplementary Planning Document (SPD3) adopted June 2018, which seeks shopfronts to be of high standards of design and continue the design language of adjacent premises by acknowledging the common features that occur on the parade or terrace of shops.
22. Given its position within the commercial frontage, the appeal site is highly visible from public vantage points along Cricklewood Broadway and provides a shopfront that is not part of the predominant characteristic of the surrounding area. As such, the appeal site would fail to respond positively to its context and given its prominence would be of an inappropriate design that harms the character, appearance, and significance of the MCA. I attach considerable importance and

weight to the desirability of avoiding any such harmful effect in accordance with Section 72(1) of the Act.

23. For these reasons, I conclude that the proposed development harms the character and appearance of the area and fails to preserve or enhance the MCA. The proposal would therefore be contrary to Policies BHC1, DMP1, BD1 and BE7 of the BLP and policies D3 and HC1 of the LP; and the aims and objectives of the SPD3, which amongst other things collectively require new development to be respectful; providing a high standard of design; and making a positive contribution to the street scene and the character of the area, whilst protecting or enhancing heritage assets. Nor would it accord with the Framework which seeks to conserve and enhance the historic environment, ensuring new development is responsive to local history, culture, and heritage.
24. Nevertheless, given it would be relatively localised, the harm I have identified to the significance of the heritage asset would be less than substantial. Paragraph 215 of the Framework advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
25. I have had regard to the public benefits of the appeal scheme, which would provide a modest contribution to the vitality and viability of the commercial area along Cricklewood Broadway. The proposal would result in some small social and economic benefits, including the support patrons would give to other local businesses and services. To these benefits I apportion moderate weight given the limited scale and nature of the proposed development.
26. However, the appeal scheme would fail to preserve the significance of the MCA, a designated heritage asset, to which I must attach importance and great weight. Accordingly, the public benefits would not outweigh the less than substantial harm that would be caused to the significance of the heritage asset identified above.
27. Overall, the alterations to the shopfront including the signage and recessed doorway/entrance causes unacceptable harm to the character and appearance of the surrounding area and the MCA, in conflict with the Development Plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the Development Plan. As such, the enforcement notice will be upheld with a correction and variation. Consequently, the ground (a) appeal in Appeal A does not succeed. Furthermore, Appeal B is also dismissed.

Conclusion

28. For the reasons given above, I conclude that Appeal A should not succeed. I shall uphold the enforcement notice with a correction and variation and refuse to grant planning permission on the application deemed to have been made under S177(5) of the 1990 Act (as amended).
29. For the reasons given above, I conclude that Appeal B should also not succeed.

Robert Naylor

INSPECTOR