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## Appeal Decision

Site visit made on 2 September 2025

by **R Curnow MA(TCP), BSC(Hons), CMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 September 2025

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**Appeal Ref: APP/M5450/C/23/3318115**

**Land adjacent to the Rear of 49 - 51 Tudor Road, Harrow HA3 5PQ**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
  - The appeal is made by Mrs Kasthoori Satkunarajah against an enforcement notice issued by the Council of the London Borough of Harrow ('the Notice').
  - The notice was issued on 9 February 2023.
  - The breach of planning control as alleged in the notice is Without planning permission: 1 The unauthorised material change of use of the Land for storage and sale of motor vehicles (Sui Generis) ("Unauthorised Use"); and 2 The unauthorised construction of single storey wooden and perspex canopy on the Land as shown hatched blue on the attached Plan 2 ("Unauthorised Operations").
  - The requirements of the notice are: 5.1 Cease the Unauthorised Use; 5.2 Remove from the Land all vehicles, materials, tools and paraphernalia associated with the Unauthorised Use; 5.3 Demolish the Unauthorised Operations; 5.4 Remove from the Land all material and debris arising from compliance with the requirement of paragraph 5.3 of 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)(a), (d), (f), (g) 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.
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### Decision

1. It is directed that the enforcement notice is varied by:  
Removing paragraph 5.3 of section 5 of the Notice and renumbering paragraph 5.4 as paragraph 5.3; and  
Extending the time for compliance with the requirements, in section 6 of the Notice, to Six (6) months.

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.

### The Notice

2. Plan 2 attached to the Notice shows an area of the land outlined and hatched in blue on which the Council claims that the canopy has been built. The Appellant's case in this respect is that the plan lacks precision and gives the impression that a brick building on the land is to be removed, as well.
3. Section 173 of the Act sets out the statutory contents and requirements of a notice. S173(2) requires a notice to enable any person on who it is served to know what the matters that constitute the breach of planning control are. S173(3) requires that a notice specifies the steps to be taken to comply with the requirements of a notice. A plan attached to the notice can assist in both regards. There is, however, no statutory requirement in s173 to attach a plan to a notice, and a Council can rely solely on a description of the breach.

4. However, if a plan is attached it should accord with ss173(2) and (3). If it is so deficient to be misleading and could not be corrected without causing injustice, the notice could be quashed, by reason of s176.
5. Whilst the area outlined and hatched in blue on Plan 2 might not accord absolutely with the site of the canopy, it is sufficiently accurate to enable the recipients of the Notice to identify what is being enforced against. The Appellant's case, that Plan 2 gives the impression that the brick building on the site is attacked, fails on two counts: Firstly, and most importantly, there is no reference to this building in the allegation; and, secondly, as I saw at my site visit the hatched area clearly does not include the brick building. Furthermore, the Appellant's written submissions show that she understands what the Notice attacks.
6. It is further claimed that the purpose of the Notice is unclear, and this causes injustice. Again, I find this to be incorrect. The Notice plainly seeks to remedy the breach of planning control.
7. For the above reasons, the Notice and its attendant plan accord with the statutory provisions in the Act.

#### **Ground (d)**

8. An appeal made under Ground (d) is that at the time the Notice was issued, it was too late to take enforcement action. The Appellant's case is made in respect of the canopy referred to in paragraph 3.2 of the Notice.
9. The Appellant has submitted a sworn affidavit, in which she says that the canopy was completed on 15 December 2018. She also submitted satellite images<sup>1</sup> of the site; whilst the canopy is not present on that image dated May 2018, it is on that dated June 2019. On the basis of the information submitted, on the balance of probability I find that the canopy was substantially completed in December 2018.
10. Although this date of completion was in excess of 4 years from the date of issue of the Notice that is the subject of this appeal, it is not that date which is relevant here. S171B(4)(b) of the Act sets out that other sub-sections of s171B do not prevent a Council "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".
11. This is the second enforcement notice that the Council has issued in respect of this alleged breach of planning control. The first was appealed<sup>2</sup> against by the Appellant and, due to inadequacies within it, the notice was quashed. That notice was issued on 2 February 2021 and, given the terms of s171B(4)(b), immunity should be assessed from four years before that date. Applying this approach, the canopy had not been substantially complete for a period of four years ending with enforcement action being taken.
12. For the above reasons, the Ground (d) fails.

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<sup>1</sup> Document 7 attached to her statement

<sup>2</sup> Planning Inspectorate reference APP/M5450/C/21/3269947

## Ground (a) and the Deemed Application

13. An appeal made under Ground (a) is that the breaches of planning control alleged in the Notice should be granted planning permission.

## Main Issues

14. The main issues are:

In respect of the material change of use, the effect of the development on:

- The character and appearance of the area; and
- The living conditions of the occupants of nearby residential properties by way of outlook and noise generation.

In respect of the operational development, the effect of the development on:

- The character and appearance of the area.

### *Change of Use – Character and appearance*

15. The character and appearance around the appeal site is typical of the outer suburbs of northwest London. It is predominantly residential, with dwellings set out in terraced or semi-detached form that often have long rear garden areas. Many of the properties have outbuildings in their gardens and, immediately to the southwest of the site, there is a short lane giving rear access to properties in Tudor Road and Carmelite Road. There are a number of garages along this lane.
16. Amongst the residential development are small parades of commercial development, as is the case with properties to the northeast of the appeal site, onto Tudor Road, including numbers 49-51. Otherwise, from what I saw of the area, commercial development is limited to 'town centres', such as that to the north of Harrow and Wealdstone station or industrial estates.
17. I did not see another commercial site to the rear of properties in the manner of the appeal site, nor was my attention drawn to any.
18. As is the manner with car sales, generally, the land is intensively used. It is not a large site, yet there were in the order of 18 vehicles parked very closely together on it when I visited.
19. The Appellant says that vehicles are delivered to the site individually, rather than arriving on transporters or lorries. She also tells me that no repairs using power tools are undertaken from the site; though third parties have suggested otherwise. Their use, including that of pressure washers, is, as the Appellant suggests, a matter that could be controlled using a condition and, thus, the effect of the use on the area's character would be reduced.
20. Notwithstanding this, I find that the intense use of the land for commercial purposes is at odds with the area's overwhelmingly residential character.
21. The effect of the use on the appearance of the area largely depends on whether the gate onto Leighton Road is closed or open. When closed, one would not see much of the activities on the appeal site. However, when open, one would see cars and activities associated with the use being undertaken. This would be at odds with

what might be expected, and causes visual harm. Whilst Nos 49-51 are used for commercial purposes, this is of a type that is commonplace in suburban areas and does not provide mitigation for the use being undertaken on the land. Although the Appellant refers to most of the sales arising from internet transactions, it is reasonable to suppose that the gates would be open when the business is open, and I have not been told otherwise. This, the Appellant says, is 10:00 to 18:00 Monday to Saturdays and 10:00 to 16:00 on Sundays and bank holidays. It seems unlikely that the opportunity to display cars for sale to passing traffic would be missed during these periods and, thus, the gate would be most likely to be open, and the harm would be experienced.

22. Therefore, for the above reasons, I find that the use causes harm to the character and appearance of the area. As such, it is contrary to the terms of: Policy D3 of the London Plan 2021 ('LP') that seeks to ensure that a proposed use of land is appropriate to the area and that this contributes to an area's local character; Policy CS1B of the Harrow Core Strategy 2012 ('HCS') that states that developments that would harm the character of suburban areas, and which fail to respond positively to the area where they are carried out, will be resisted; and Policy DM1 of the Council's Development Plan Policies, July 2013, ('DMP') that reflects those policy aims.

#### *Change of Use – Living conditions*

23. The residential units above the ground floor commercial units in Nos 47-51 are located close to the appeal site and, although they are at a higher level, the flats' occupants look onto and across it. The development has resulted in that outlook being changed to an intensively used commercial site, rather than rear gardens used for purposes ancillary to those properties. It causes significant harm to their living conditions.
24. The Council has given scant evidence of any harm being caused by reasons of noise and disturbance arising from the use of the land. Furthermore, I note that there is a difference of opinion on the effects of the development on living conditions in the written representations of third parties.
25. The Appellant has set out how conditions controlling such matters as hours of use and restrictions on the use of powered equipment might be attached to any grant of permission to mitigate the effects on the occupants of the flats. Although I do not say that I agree with the precise wording of the proposed conditions, I agree that the effects of the development through noise and disturbance might be adequately mitigated through conditions.
26. Therefore, although I do not find there to be harm to living conditions through noise and disturbance, there would be significant harm to the outlook of the occupants of flats above Nos 47-51. As such, the use of the land is contrary to those terms of LP Policy D3 that seek to provide inclusive, comfortable and inviting environments, and those of DMP Policy DMP1 that seek to protect residents' living conditions.

#### *Operational development – Character and appearance*

27. The canopy on the land consists of timber uprights supporting a timber frame, to which perspex roof panels are attached. It is not particularly high, running out from the eaves line of the small brick building on the land, and projecting above the

boundary fence onto the lane by a very small margin. It covers a small area of the land between the brick building and the access gates onto Leighton Road.

28. This is a very small development that, when viewed from public vantage points, is seen in the context of the varied and uninspiring outbuildings and garages along the lane between properties in Tudor Road and those in Carmelite Road. It would be visible to some local residents, especially those in flats above the commercial properties in Tudor Road but, again, this would be in the context of the other outbuildings along the lane. In the circumstances, I find the canopy to be a building that is appropriate to its setting and does not harm the character of the area in accordance with the aims of LP Policy D3, DMP Policy DM1 and HCS Policy CS1B. As it relates to residential development, I do not find the terms of the Council's Supplementary Planning Document, 'Residential Design Guide' adopted 15 December 2010, to be relevant here.
29. For the above reasons, the appeal succeeds on this main issue, and I shall vary the requirements of the Notice.

#### *Other matters*

30. The Appellant claims that there is a fallback position, in terms of the use of the land. Having found that the use, as it stands, causes harm to the character and appearance of the area, I need to assess whether such a position exists and, if so, whether this outweighs that harm.
31. Planning permission<sup>3</sup> was granted in 2011 for, in the words of the decision notice, "Vehicular crossover, parking space, removal of small gate, installation of sliding gate". The Appellant's case is that the ancillary parking granted by that permission is the lawful use of the land and would serve the two shops at Nos 49-51 and the flats above. Those uses, she says, would require two spaces for vans and eight other parking spaces, and this would be the legitimate use of the land.
32. The Council has submitted copies of Land Registry documents that show the sale of the appeal site in two parcels separate to Nos 49-51. Furthermore, it appeared that the land was physically separated from Nos 49-51 and is clearly in a separate use from them. Thus, a separate planning unit has been formed, so it could not be used for parking ancillary to Nos 49-51.
33. Even if I were to be wrong on this, I note that the planning permission only related to a part of the land to the rear of No 51 and none of that to the rear of No 49. The land that benefited from the permission could not accommodate the 10 vehicles referred to in the Appellant's fallback scenario, let alone the number that I saw on the land at my visit. Furthermore, the two uses are materially different. This is, in part, due to the number of vehicles that I have referred to. It is also in terms of the nature of the use. The car sales use brings people to the site who do not live there and, although cars parked ancillary to Nos 51 might be washed and worked on without restriction, it is most likely that cars for sale would be washed and hoovered far more often.
34. For the above reasons, I find that there is no fallback position.
35. Amongst its objectives, the CS aims for the creation of 3000 jobs in Harrow and Weladstone. Furthermore, its Policy CS1P and DMP Policy 31 support economic

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<sup>3</sup> Council reference P/2297/10

growth in accordance with the terms of the National Planning Policy Framework ('the Framework'). However, this is subject to a proposal's compliance with the terms of the development plan as a whole. I have set out, above, the reasons why this is not the case. In the circumstances, I give the claim that the Notice puts two full-time jobs at risk only limited weight.

36. Even were there to be a fallback position in terms of the use of the limited area of land to the rear of No. 51 for ancillary parking, it would not be of sufficient weight either by itself or in association with other considerations to outweigh the harm that I have identified, above.

### **Conclusion on Ground (a)**

37. For the reasons that I have given, above, the Ground (a) appeal fails.

### **Ground (f)**

38. 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 or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. Here, the purpose of the Notice is to remedy the breach of planning control.
39. In her case, the Appellant makes reference to the fallback position, and that the Notice would preclude the lawful use of the land for parking, and other purposes, ancillary to the use of Nos 49 and 51. This would not be the case. The Notice only attacks the use of the land for the storage and sale of motor vehicles; it would not affect any lawful use of the land. As such, it is not punitive as has been claimed.
40. The Appellant also returns to the claim that the use of conditions, such as restricting hours of operation and prohibiting mechanical repair works, would overcome the harm that the Council identifies. Whilst I have found that conditions might mitigate some of the ill-effects of the development, it would not overcome all of them, as I have set out in my assessment of the Appellant's Ground (a) appeal.
41. For the reasons that I have given, the Appellant has not made the case that there is an obvious alternative or lesser step that would achieve the aims of the Notice. I cannot see any, either.
42. For the above reasons, the Ground (f) case fails.

### **Ground (g)**

43. An appeal under Ground (g) is that the period for compliance with the terms of the Notice falls short of what should reasonably be allowed.
44. The Appellant's case is that it would not be possible to relocate the business, and thus secure the two full-time jobs, within the 3 months given. Furthermore, if she were unable to find another location, additional time would be needed for the disposal of the cars. She requests the period for compliance is extended to 9 months.
45. Although, as the Council says, the use has been going on for some years, this is not sufficient reason to refuse to allow additional time. The question is whether the time for compliance from the date of the determination of the appeal is sufficient. Here, I have some sympathy for the Appellant and agree that some additional time

should be allowed. However, she has not shown that 9 months is required and I find that a reasonable time for compliance would be 6 months.

46. For the above reasons, the Ground (g) appeal is successful.

### **Conclusion**

47. 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.

*R Curnow*

INSPECTOR