



Appeal Decision

Site visit made on 16 September 2025

by **A Berry MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 October 2025

Appeal Ref: APP/W5780/C/23/3321265

Land at 536, 538 and 540 Cranbrook Road, Ilford IG2 6RD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act").
 - The appeal is made by Mr K Mudannayake against an enforcement notice ("EN") issued by the Council of the London Borough of Redbridge.
 - The EN was issued on 29 March 2023.
 - The breach of planning control as alleged in the EN is: Without planning permission, the change of use of the rear outbuildings to use within Distribution Use Class with associated waste storage space.
 - The requirements of the EN are to:
 - (i) Cease the use of the outbuildings as a distribution warehouse and for any other commercial use; and
 - (ii) Remove connections between outbuildings, and return the use as incidental to the individual dwelling houses at numbers 536, 538 and 540 respectively; and
 - (iii) Clear resultant debris from requirements (i) and (ii).
 - The period for compliance with the requirements is: No later than 6 months of the date the notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the 1990 Act. 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 1990 Act.
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Decision

1. The EN is quashed.

Matters Concerning the Notice

Alleged Breach

2. For a change of use to amount to development there must be a material change in the character of the use that the land is being put to. Therefore, the alleged breach of planning control is "...the material change of use of..." (my emphasis) rather than "...the change of use of...". Therefore, section 3 of the EN must be corrected in this regard. Both parties' cases are based on the allegation amounting to development. No injustice would therefore arise from this correction.
3. The alleged breach includes "...with associated waste storage space" which, the evidence before me suggests, is ancillary to the primary use of the land for distribution purposes. Where a material change of use is alleged, only primary uses should be included within the description of development. Consequently, these words should be deleted from the alleged breach.
4. The alleged breach of planning control and the requirements should refer to the same development. However, they are described differently in the EN. The development is more accurately described within step (i) of the requirements and

therefore, the alleged breach should be changed to reflect this description. As this correction would be for precision, I am satisfied that it would not cause injustice to either party.

Requirements

5. Step (i) requires the cessation of the use of the buildings as a distribution warehouse, however, it also requires the cessation of *“any other commercial use”*. In addition, step (ii) requires the outbuildings to be returned to a use *“incidental to the individual dwelling houses at numbers 536, 538 and 540”*. These requirements go beyond remedying the breach of planning control and therefore should be deleted.
6. Step (ii) requires the connections between the outbuildings to be removed. However, the connections do not form part of the alleged breach of planning control. If I corrected the alleged breach to include the connections, this would expand the scope of the EN, which would cause injustice to the appellant. Conversely, if I did not correct the alleged breach to include the connections, I may inadvertently grant deemed planning permission for them by virtue of s173(11) of the 1990 Act, which would cause injustice to the Council.
7. Step (iii) requires the resultant debris to be cleared. However, it fails to state that the debris should be removed from the land. As this is for precision, I am satisfied that step (iii) can be varied to include this requirement without causing injustice to either party.

EN Plan

8. The outbuildings are accessed from Martley Drive. However, the access is not included within the land edged red on the EN plan. The alleged breach of planning control includes *“...with associated waste storage space”* and the photographic evidence before me suggests this was taking place on the access from Martley Drive. Furthermore, the reasons for issuing the EN include *“a serious and adverse effect on the amenities enjoyed by residents of that area, by reason of noise, disturbance and general pedestrian and vehicular activity”* the latter of which would be derived from the use of the access.
9. My powers to correct the EN extend to the substitution of the plan, whereby any errors in respect of the area identified as the site may be remedied. However, the amendments should only occur where no injustice would be caused.
10. It is unclear from the information before me, who owns the access and whether they have been served a copy of the EN. Furthermore, from what I saw during my site visit, the access is also used to gain entry to three garages to the rear of 532 and 534 Cranbrook Road. Therefore, anyone with an interest in the access may not have been party to the EN or had the opportunity to appeal.
11. As such, correcting the plan to enlarge the land edged red to include the access could have consequences in terms of who was served the EN, who appealed, or what the grounds of appeal were. Therefore, I cannot correct the plan to include the access without causing injustice.
12. The land edged red on the EN plan includes the dwellings at 536, 538 and 540 Cranbrook Road including their front and rear gardens. These form separate planning units to the unauthorised development and therefore, should be excluded

from the red lined area on the EN plan. As this correction would involve a reduction in the original area, it could be undertaken without causing injustice to either party.

Conclusion

13. For the reasons given above, I conclude that the EN does not specify with sufficient clarity the alleged breach of planning control or the land where the breach of planning control is alleged to have taken place.
14. It is not open to me to correct all the errors in accordance with my powers under section 176(1)(a) of the 1990 Act, since injustice would be caused were I to do so. Therefore, the EN is invalid and will be quashed.
15. In these circumstances, the appeal on the ground set out in section 174(2)(a) of the 1990 Act and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act does not fall to be considered.

A Berry

INSPECTOR