



Appeal Decision

Site visit made on 18 October 2025

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

an Inspector appointed by the Secretary of State

Decision date: 3rd November 2025

Appeal Ref: APP/N5090/C/23/3330903

Land to west of Rowley Lane Windmill Lane EN5 3HU

- 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 Michiel Abskharoun against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The enforcement notice was issued on 25 September 2023.
 - The breach of planning control as alleged is the material change of use of the land (as approximately outlined in red on Figure 1 attached to the notice) to storage of tiles and erection of metal fencing (as approximately marked by the yellow dotted line on Figure 1).
 - The requirements of the enforcement notice are to 1) Cease the use of the land (as approximately outlined in red on Figure 1 attached to the notice) for storage of tiles and associated materials, 2) demolish the metal fencing as approximately marked by the yellow dotted line on Figure 1, and 3) permanently remove all constituent materials resulting from the works in 2. [sic] above from the property.
 - The period for compliance is 1 month.
 - The appeal is proceeding on the grounds set out in section 174(2) (b), (c) and (g) of the 1990 Act¹. 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.
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Decision

1. The enforcement notice is quashed.

Preliminary matters

2. The appeal form did not include ground (b), but the appellant clearly challenges the issued notice on the basis that the alleged matters have not in fact occurred. The Council’s evidence covers the arguments made, and, for reasons that will become clearer later, I am satisfied that no injustice is caused if I am to introduce this ground of appeal.

Ground (b)

3. The onus is firmly upon the appellant to make their own case out. There is no dispute a metal fence has been erected and existed at the time when the notice was issued. The area forming a separate unit of occupation is also outlined in the notice. However, the breach is described as a change in use of the land to the storage of tiles. The appellant simply disagrees and says that the allegation has not in fact occurred because tiles are not stored on the land. At face value, the Council’s evidence undermines this claim. For example, photographs taken during a site visits made in July and September 2023 clearly show boxes of packed ceramic tiles and piles of damaged or broken tiles spread across the site, but there is a problem.

¹ The appellant alleges that the breach of planning control described in the notice has not occurred. This is a ground (b) type argument, and for clarity’s sake I will proceed on the basis the latter is implied.

4. The Council's statements try and steer towards a storage and distribution type of use of the land. Although in the allegation it is not strictly necessary to refer to a class of use as specified in the schedule to the Town and Country Planning (Use Classes) Order 1987 as amended, the issued notice does not allege a storage and distribution activity. In any event, there is no such firm information to support the assertion that the building material is stored and distributed.
5. The Council's own evidence highlights the presence of various materials on the land in addition to tiles. Photographic documentation taken during site inspections clearly depicts roofing sheets, timber pallets, and metal fencing at the location during the officers' visits. During my own inspection, I also observed a diverse assortment of materials deposited in multiple areas across the site. Based on the range and nature of these materials, it is evident that they are typically utilised within the building trade for construction activities or are commonly employed in do-it-yourself refurbishment projects. This supports the view that the materials found on the land are associated with general building and construction purposes.
6. It is not necessary for the description of an alleged breach of planning control to be excessively technical, legalistic, or complicated; plain English will suffice. In this context, the evidence indicates that the land in question has been used for the storage of building materials, a term that is comprehensive in scope. Despite this, and based on the representations presented, it remains unclear why the Council has specifically identified the storage of tiles as the breach. The facts of the case reveal that the description given for the alleged breach is misleading. The key lesson is that any alleged breach of planning control should accurately reflect the situation as observed on the ground during the officer's investigation. In this instance, the Council employed terminology in the notice that was vague, imprecise, and confusing, which did not correspond with the actual circumstances of the breach at the relevant time.
7. The reasons for issuing the notice are clearly stated and refer to the harm caused. The notice seeks to remedy the breach of planning controls, and the steps are restorative in nature. However, there is a fundamental issue with the requirements. At section 5 sub (1), the notice requires the recipient to "...Cease the use of the land...for storage of tiles and associated materials". To a professional trading as a builder items like wall and floor tile adhesive or grout are normally associated with tiling yet I did not see any of these items stored on the land. To my mind, the requirements are too vaguely phrased and open to dispute and interpretation, because it is unclear whether the associated items are linked to the storage of tiles or building materials.
8. With that said, I have detected an even bigger issue because the notice does not expressly require the removal of the tiles and associated materials, which undermines the restorative purpose behind the notice. Sub-section (2) and (3) do not save the day because the former states: "*Demolish the metal fencing...*" and the latter says "*...Permanently remove all constituent materials resulting from the works in 2. [sic] above from the property*". Had sub-section (3) also referred to step (1), the recipient could not be left in any doubt that the notice, potentially, seeks the removal of all tiles and associated items. There is no explanation given as to why such a requirement is not specified in the notice.
9. I find that the notice needs to be corrected in the light of my reasons above. There are powers to correct any defect or mis-description provided the essential test of injustice is satisfied. The allegation could be described as follows: *the material change in use of the land for storage purposes facilitated by the storage of building materials*. The

requirements would need to flow from the allegation and, amongst other things, require *the cessation of of the storage activity and by the removal of all building materials*, which would achieve the statutory purpose to remedy the breach by restoring the land to its condition before the breach occurred - the contravener best placed to know the condition of that land.

10. In reaching my decision, I have given close attention to whether it would be appropriate to exercise the available power to correct the notice. Implementing such a correction would necessitate significant changes to both the description of the alleged breach and the steps required to remedy it. These amendments would need to ensure that the requirements properly flow from the nature of the alleged breach and do not result in either under-enforcement or over-enforcement.
11. However, I am conscious that making substantial alterations to the notice could lead to a considerable expansion of its scope and effect. Had the notice alleged a breach of a fundamentally different nature, it is plausible that both parties to the appeal might have presented different arguments or evidence in support of their respective cases. Considering this, I am not persuaded that correcting the notice at this stage would avoid causing injustice to the parties involved in the appeal. As a result, I do not consider it appropriate to exercise the correction power in this instance.
12. For all the above reasons, and having considered all other matters raised, the resolution is to quash the issued notice by allowing the implied appeal on ground (b) because the matters alleged have not in fact occurred. The Council can go back to the drawing board and reconsider its enforcement strategy².

A U Ghafoor

INSPECTOR

² For completeness, I draw attention to second-bite provisions set out in s171B(4)(b).