



Appeal Decision

Site visit made on 7 August 2025

by **C Rafferty LLB(Hons), Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 12 November 2025

Appeal Ref: APP/T5150/C/23/3327090

Flats 1-4, 93 Harrowdene Road, Wembley HA0 2JH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Vivek Narasimhan against an enforcement notice issued by the Council of the London Borough of Brent.
- The enforcement notice was issued on 23 June 2023.
- The breach of planning control as alleged in the notice is failure to comply with condition Nos. 2, 4, and 5 imposed on a planning permission ref 18/4512 granted on 1 July 2019.
- The development to which the permission relates is: first floor side extension, front porch, garage conversion, rear balcony at first floor, minor alterations to external elevations and convert the property into 4 no. self-contained flats; widen existing access. The conditions in question are:
No. 2 which states that: The permission shall relate to the following plans: 1:1250 site location plan, KKR-1047/PF-1B (existing floor plans, elevations, section, existing site plan & proposed site plan elevations), KKR-1047/PF-2C (proposed floor plans and sections), KKR-1047/PF-3C (proposed elevations);
No. 4 which states that: "Prior to the first use of the balcony to Flat C, the railings and obscure glazed screen shall have been fitted in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority."; and
No. 5 which states that: "Notwithstanding the details shown on the approved site plan, none of the flats hereby permitted shall be occupied until the forecourt and rear garden areas have been laid out and completed in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority, such details to include the following:
(i) parking for two cars in accordance with the Council's adopted standards;
(ii) secure, undercover, lockable cycle compounds in accordance with the minimum requirements of the London Plan;
(iii) pedestrian circulation areas to show access to the flat entrances and rear garden areas and outbuilding, to include access to the rear garden areas for Flats C and D via the northern side of the building;
(iv) a landscaped area; The approved details shall be thereafter retained as such."
- The notice alleges that the conditions have not been complied with in that:
Condition No. 2 – the development does not relate to the above plans in respect of the front elevation, the roof works including the first floor side extension roof, the front gable end, and the eaves across the entire roof;
Condition No. 4 - no details have been submitted to and nor approved in writing by the Local Planning Authority;
Condition No. 5 - no details have been submitted to and nor approved in writing by the Local Planning Authority.
- The requirements of the notice are to permanently cease use of the premises until Conditions 2, 4 and 5 have been complied with and planning permission 18/4512 has been implemented in full.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f), and (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.

Decision

1. The enforcement notice is quashed.

The Enforcement Notice

2. Whilst it is not a matter that has been raised by the parties, I have a duty to consider any defects within the enforcement notice and, where possible, make any necessary variations or corrections to put the notice in order. As a legal document, it is important that the enforcement notice is legible on its face, without needing to infer or imply its meaning.
3. Section 173(3) of the 1990 Act states that an enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the purposes set out in section 173(4). These purposes are: (a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or (b) remedying any injury to amenity which has been caused by the breach.
4. The alleged breach of planning control as set out in the notice is the failure to comply with condition Nos. 2, 4, and 5 imposed on a planning permission ref 18/4512 granted on 1 July 2019. In specifying the steps required to be taken to remedy the breach, the notice requires to permanently cease use of the premises until Conditions 2, 4 and 5 have been complied with and planning permission 18/4512 has been implemented in full.
5. However, in addition to the inconsistency in “permanently” ceasing a use for a temporary period, i.e. until the cited conditions have been applied with, the enforcement notice does not allege a material change of use. As such, although the Council argues that the only way to enforce the relevant conditions is to require the use to cease until these are satisfied, requiring such cessation of the use goes beyond what is necessary to remedy the breach. Similarly, the requirement to implement planning permission 18/4512 in full is excessive, and beyond what is necessary to remedy the alleged breach.
6. It is open to me to correct any defect, error, or misdescription in the notice or to vary the terms of the notice under Section 176(1)(a) of the 1990 Act. This power is subject to the correction or variation not causing injustice to the appellant or the local planning authority. While the Council has suggested varying the notice to refer to cessation of occupation until the cited conditions have been complied with, given the nature of the breach, this too would go beyond what is necessary to remedy the breach, such that it would still result in injustice to the appellant.
7. Furthermore, the requirements of the notice do not set out with clarity how conditions 4, 5, and 6 of planning permission 18/415 are to be complied with. As such, within the confines of the notice, it is not specified with certainty the steps required to be taken in order to remedy the breach. Taking the original wording of conditions 4 and 5, these require plans to be approved by the Council, something which the appellant has no control over. For this reason, the appellant’s suggestion that the requirements are varied to refer to the submission of plans for approval would also still result in injustice to them.
8. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the steps required for compliance. It therefore does not comply with the requirements of section 173(3) of the 1990 Act. It is not open to me

to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act as amended, since injustice would be caused were I to do so. In any event, given the range of issues identified above with the notice, if I were to correct or vary the notice, this would be a substantial re-drafting exercise and there would be no proper opportunity for either party to fully consider and comment on the precise wording or such a varied or corrected notice, or its implications. The enforcement notice is invalid and will be quashed.

9. In these circumstances, the appeals on the grounds set out in section 174(2)(a), (f), and (g) of the 1990 Act as amended, and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended does not fall to be considered.

C Rafferty

INSPECTOR