



Appeal Decision

Site visit made on 14 October 2025

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2025

Appeal Ref: APP/G5180/C/23/3322525

Land between 57-67 Fox Lane, Keston BR2 6AL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended.
- The appeal is made by Mr David Clapham against an enforcement notice issued by the Council of the London Borough of Bromley.
- The notice was issued on 17 May 2023.
- The breach of planning control as alleged in the notice is *without planning permission the stationing of a shipping container and erection of hoarding around the perimeter of the site*.
- The requirements of the notice are:
 - (a) *Remove from the Land the large shipping container located in the approximate position marked 'X' on the attached plan and,*
 - (b) *Remove the hoarding erected on the Land as outlined in green on the attached plan and,*
 - (c) *Restore the land to its condition before the breaches of planning control took place.*
- The period for compliance with the requirements are: *2 months after this notice takes effect.*
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b) and (f) of the 1990 Act (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.

The Enforcement Notice

1. There is another appeal¹ at the property made by the same appellant against the refusal of planning permission by the Council for the London Borough of Bromley for installation of timber fence, gates and a tumbled flint stone wall at the appeal site. Whilst at the same site these are independent appeals and are subject to separate decisions.
2. At the site visit it was apparent that the enforcement notice has partially been complied with. The shipping container has been removed from the site along with the hoardings referred to in the notice. However, a section of hoardings remains at the site which encloses a small builder's compound along with a set of metal gates. There are also a large set of gates fronting the roadside to provide security at the site, preventing access and egress. I also noted other associated works including the provision of timber post and rail fencing, reprofiling works, a hard surfaced access route and retaining flint boundary walls. Consequently, it is unlikely that the land has been or can be restored to its condition prior to the alleged breaches taking place.
3. In accordance with section 173(1) of the 1990 Act (as amended), an enforcement notice must state, *'the matters which appear to the local planning authority to constitute the breach of planning control'* and it must be stated in such a way that it *'enables any person on whom a copy of it is served to know what those matters are'* (section 173(2)). In other words, the allegation must be clear.

¹ PINS Ref: APP/G5180/W/23/3323406

4. The appellant raises concerns in respect to the accuracy of the plan attached to the notice, with specific regard to the location of the shipping container. Despite being removed from the appeal site the location of the shipping container was not in the area depicted by the blue cross on the plan attached to the enforcement notice. From the evidence before me, the position of the shipping container appears to have been located further south within what is currently a small builder's compound, enclosed with hoardings. Neither the compound nor the hoarding enclosing it have been shown on the plan, nor have they been referred to in the alleged breach of planning control, at section 3 of the notice.
5. From the evidence before me, the hoardings around the perimeter of the site have also been erroneously annotated on the plan attached to the enforcement notice. The hoardings extended further than the green dashed line on the plan in a southeastern direction. The evidence submitted highlights that the hoarding then turned in a southward direction and finished abutting the enclosed compound, referred to above, at the corner of the site. The green dashed line depicting the hoardings also encapsulates the entrance to the site, where there is a large metal gate. Furthermore, there is no reference to the large metal gate in the enforcement notice nor the attached plan.
6. Consequently, I have concerns on whether the notice is a valid one and, if not, whether it is capable of correction. Pursuant to section 176 of the 1990 Act (as amended), I have the power to correct any defect, error or mis-description, provided I am satisfied there will be no injustice to either party.
7. The notice requires the removal of the shipping container and the hoardings at the site, and the subsequent restoration of the land prior to the alleged breach taking place. It is acknowledged that the appellant has partially complied with the notice, however as there is no reference to the access gates, the builder's compound or any of the other associated works, it is unclear whether these also need to be removed in order to restore the land and thus comply with the notice. The description of the alleged breach and the requirements of the enforcement notice are therefore imprecise, and there is no additional information attached to the notice to provide clarification. Furthermore, given the erroneous nature of the plan, this does not assist in these matters either.
8. Consequently, it is unclear from the enforcement notice whether the gate, builder's compound and other associated works need to be removed. A correction of the notice and/or the plan could potentially broaden the scope of the notice resulting in injustice to the appellant. It is not open to me to correct the errors in accordance with my powers under section 176(1)(a) of the 1990 Act (as amended), since injustice would likely be caused to one or both of the main parties were I to do so.
9. For the reasons given above, I conclude that the notice 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. Further, there are ambiguities within both the allegation and the required steps to be carried out. I find, therefore, that the enforcement notice, as issued, is invalid. Accordingly, it is directed that the enforcement notice is quashed.

Robert Naylor

INSPECTOR