



Appeal Decision

Site visit made on 17 February 2026

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

an Inspector appointed by the Secretary of State

Decision date: 06 March 2026

Appeal Ref: APP/T5150/C/25/3362425

2 Warren Road, London NW2 7LH

- 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 Aziz Khan against an enforcement notice ("EN") issued by the Council of the London Borough of Brent.
 - The EN was issued on 18 February 2025.
 - The breach of planning control as alleged in the EN is: Without planning permission, the material change of use of the land at the rear of the premises to the storage of shipping container(s), building materials, other items and waste.
 - The requirements of the EN are:
 - STEP 1 Cease use of the land at the rear of the premises for the storage of shipping container(s), building materials, other items and waste.
 - STEP 2 Remove shipping container(s), building materials, other items, debris and waste from the land at the rear of the premises.
 - The period for compliance with the requirements is: 4 months after this notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(d) of the 1990 Act.
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Decision

1. It is directed that the EN is corrected and varied by:

- *the deletion of the words "STEP 2 Remove shipping container(s), building materials, other items, debris and waste from the land at the rear of the premises" and their substitution with the words "STEP 2 Remove shipping container(s), building materials, other items and waste from the land at the rear of the premises" in schedule 4 of the EN;*
- *the substitution of the plan annexed to this decision for the plan attached to the EN.*

Subject to the correction and variation, the appeal is dismissed and the EN is upheld.

Matters Concerning the Notice

2. It is necessary for the alleged breach of planning control to be described consistently throughout the EN. Step 2 of the requirements includes the removal of "debris" which does not form part of the alleged breach and therefore must be omitted. As this variation is for precision, I am satisfied that it would not prejudice either main appeal party.
3. The alleged breach of planning control is described as "*the material change of use of the land at the rear of the premises...*" [my emphasis added]. The plan attached to the EN identifies the land or premises with a bold black outline and includes the

whole of the land associated with 2 Warren Road, including the dwelling. However, the EN does not allege that a material change of use to a mixed use has taken place.

4. I invited views from both parties on correcting the EN plan to exclude the area of land associated with the dwelling. The Council agreed that the EN does not allege a mixed use has taken place and therefore, provided an amended plan that excludes the dwelling and associated garden from the land. This was forwarded to the appellant for their comments, but no response was received.
5. The correction is required to ensure the EN plan corresponds with the alleged breach of planning control. It would involve a smaller part of the land previously identified and therefore, I am satisfied that the correction would not cause injustice to either main appeal party. Therefore, I shall correct the plan accordingly.

Preliminary Matters

6. The appellant failed to attend the pre-arranged site visit. However, I am satisfied that I was able to see everything I needed to be able to determine the appeal. Therefore, I notified the main appeal parties that it was not necessary for me to undertake a further site visit.
7. The appellant asserts that the shipping container was used ancillary to the dwelling. However, they have not appealed under ground (c) – that those matters stated in the EN do not constitute a breach of planning control. This could amount to a “*hidden ground*”.
8. The evidence before me indicates that the material change of use alleged in the EN was caused by the subdivision of the property’s rear garden into two separate planning units. Google Streetview and Google Earth aerial images submitted with the appeal documentation depict a close boarded fence clearly separating the dwelling and part of its garden from the remainder of the site. Furthermore, an existing drawing¹ dated 19 June 2023 was submitted with a planning application² for 2 Warren Road that clearly shows part of the garden split into two separate planning units, with the rearmost section of the garden annotated as “*builders [sic] storage yard (sui generis)*”.
9. Accordingly, even if there was a hidden ground (c) appeal, it would clearly fail. As such, I did not seek the main appeal parties’ views on this matter.

Appeal on Ground (d)

10. An appeal under ground (d) is that at the time the EN was issued, it was too late to take enforcement action against the breach of planning control.
11. The appellant asserts that no enforcement action could be taken against the shipping container as it had been in place for a period of four years beginning with the date of the breach. They state that the shipping container is a building and they have directed me to two appeal decisions³ to support this assertion. It is their view that the Council is incorrect to impose the ten year timeframe.

¹ Drawing No 2121.EX.02 dated 19 June 2023

² Planning Ref 24/1808

³ Appeal Refs APP/G2245/C/08/2072696 and APP/Q1445/C/11/2154476

12. I acknowledge that shipping containers can indeed be considered operational development. However, that is dependent on the facts of each individual case. The breach of planning control stated in the EN is the material change of use of the land for the storage of shipping container(s), building materials, other items and waste. It does not allege operational development. This is supported by the reason for issuing the EN which states that the unauthorised change of use took place within the last 10 years. Therefore, the EN is clearly attacking the material change of use of the land rather than operational development.
13. Furthermore, the evidence before me suggests that the shipping container was used for the storage of building equipment and materials and therefore, it facilitated the material change of use of the land. Consequently, it is clear that the relevant timeframe for taking enforcement action is 10 years, not 4 years as stated by the appellant.
14. In relation to the material change of use of the land, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach. Therefore, to succeed under ground (d), the appellant must show that the breach of planning control began on or before 18 February 2015 and continued without significant interruption for at least 10 years. Any 10 year period is relevant. The relevant test is the balance of probability, and the burden of proof is on the appellant.
15. The appellant has not provided a precise date when the material change of use began. However, they have submitted a Google aerial image dated 24 March 2020 showing the shipping container in place, the land separated from the remainder of the dwelling's garden, and items stored on the land. A Google Streetview image dated November 2020 also shows the shipping container in place and the fencing subdividing the rear garden of the dwelling.
16. The Council has provided a Google Streetview image dated June 2015 that clearly shows that the rear garden of 2 Warren Road is not subdivided and the shipping container is not in place.
17. The evidence before me therefore suggests that the material change of use occurred sometime after June 2015 and before 24 March 2020. Therefore, it began after 18 February 2015. Consequently, it has not been demonstrated on the balance of probability, that the material change of use began 10 or more years before the EN was issued.
18. The appeal under ground (d) therefore fails.

Conclusion

19. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the EN with a correction and a variation.

A Berry

INSPECTOR



Planning Inspectorate

Amended Plan

This is the plan referred to in my decision dated: 06 March 2026

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Scale: Not to Scale

