



Appeal Decision

Site visit made on 3 December 2025

by **David Jones BSc (Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 March 2026

Appeal Ref: APP/B4215/C/24/3354506

140A Kirkmanshulme Lane, Manchester M12 4WB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Riaz Butt against an enforcement notice issued by Manchester City Council.
 - The notice was issued on 25 September 2024.
 - The breach of planning control as alleged in the notice is the material change of use of the land to a coach and minibus depot and garage for vehicle repairs (Sui Generis) and erection of a canopy.
 - The requirements of the notice are:
 1. Cease the use of the land as a coach and minibus depot including garage for vehicle repairs.
 2. Remove the canopy in its entirety, the approximate extent and location of which is shown hatched blue on the attached plan ENF/PLAN1
 - The period for compliance with the requirements is: Two months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (d), (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.
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Decision

1. It is directed that the enforcement notice is corrected by:
 - In section 3 the deletion of the words “material change of use of the land to a coach and minibus depot and garage for vehicle repairs (Sui Generis) and”.
 - In section 5 the deletion of requirement 1 in its entirety.
2. Subject to the above corrections, the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Application for costs

3. An application for costs was made by Manchester City Council against Mr Riaz Butt. This application is the subject of a separate decision.

Preliminary Matter

4. The appeal was originally made under grounds (a), (b), (d), (f), and (g). However, in his appeal submissions the appellant asserts that any vehicle repairs carried out at the site were in relation to the maintenance and servicing of his own vehicles, and that consequently this activity was incidental to the primary use of the site and did not amount to a breach of planning control. That argument amounts to a hidden ground (c) appeal. The appellant formally requested that the ground (c) appeal was added, and the Council were afforded the opportunity to comment on

the additional ground of appeal. I have had regard to the comments received in my determination of the appeal.

Ground (b)

5. An appeal on ground (b) is made on the basis that the matters stated in the notice have not occurred as a matter of fact. This is a legal ground of appeal, and the onus of proof is firmly on the appellant. The appropriate standard for testing the evidence is made on the balance of probabilities, that is to say whether something is more likely than not.
6. There is no dispute that the operational development, namely the erection of the canopy, has occurred as a matter of fact. However, the alleged breach of planning control also includes *“the material change of use of the land to a coach and minibus depot and garage for vehicle repairs”*.
7. The appellant has clearly stated that the appeal site has been used as a coach and minibus depot, and that vehicle repairs have also taken place. In support of this, Google Street images have been provided showing coaches and minibuses parked on the appeal site, along with documentary evidence including vehicle inspection and rectification reports, and statements regarding the purchasing of vehicle parts.
8. It is therefore clear from all the evidence presented that the appeal site is used as a coach and minibus depot and that vehicle repairs have taken place. Accordingly, the breach of planning control has occurred as a matter of fact and the appeal on ground (b) fails.
9. Much of the appellant’s representations are based on the argument that any “vehicle repairs” that take place are minor and are only undertaken in relation to the servicing of the appellant’s own vehicles. It is argued that these repairs are incidental to the primary use of the site (coach and minibus depot), and do not amount to a material change of use and therefore are not a breach of planning control. This issue is addressed under the ground (c) appeal below.

Ground (c)

10. To succeed on ground (c), the appellant must demonstrate that the matters alleged in the notice do not constitute a breach of planning control. The burden of proof is on the appellant.
11. The appellant accepts that the canopy erected at the appeal site requires planning permission, however it is argued that the alleged material change of use of the land does not constitute a breach of planning control. To evaluate whether a material change of use of the land has occurred, it is first important to assess the planning history of the site so that the lawful use of the planning unit can be established.
12. Planning permission¹ was first granted for the temporary use of the appeal site as a coach and minibus depot in 2008. Following the expiry of that permission, a second planning permission² was granted on 9 September 2010 (“the 2010 permission”) for the *“Continued use of former annexe building to sports and social*

¹ Council Ref: 088124/FU/2008/N2

² Council Ref: 093742/FO/2010/N2

club as offices and related accommodation for a coach and minibus company with associated car parking as previously approved for a temporary period under application reference 088124/FU/2008/N2”.

13. There is no dispute between the parties, and it is clear from the available evidence, that the 2010 permission was implemented. The Council argue though that the 2010 permission is no longer extant, due to an intervening unauthorised use of the site by UK Breakdown Recovery Services Ltd (“UBRS”) which took place between approximately September 2020 and September 2022. It is the Council’s position that this resulted in a material change of use of the land and consequently the appellant can no longer revert to the use authorised by the 2010 permission. A previous enforcement notice dated 8 January 2024 (“the previous notice”) was issued in relation to *“the material change of use of the land to a vehicle breakdown recovery depot and garage for vehicle repairs (Sui Generis) and erection of a canopy”* at the appeal site before subsequently being withdrawn.
14. Where the use of land is in dispute, it is necessary to identify the extent of the planning unit or units. The leading case relating to planning units is *Burdle*³. It was held in *Burdle* that the planning unit is normally the unit of occupation unless a smaller area can be identified, which as a matter of fact and degree, is physically separate and distinct and occupied for different and unrelated purposes. Three broad categories are identified for planning units, which are:
 - a) A single unit of occupation with a single primary use with ancillary and incidental activities;
 - b) A single unit of occupation with two or more separate primary uses that are not incidental to one another (mixed use); and
 - c) A unit of occupation with two or more physically separate areas which are occupied for different and unrelated purposes. Each area in this scenario forms a separate planning unit.
15. On the evidence before me, the unit of occupation would appear to be the entire area occupied by the appellant. The area occupied by the appellant is that identified by the red line plan on the enforcement notice and the location plan approved under the 2010 permission. No smaller area has been identified which is physically separate and distinct and/or is occupied for different and unrelated purposes. As such, the appeal site represents a single planning unit in this case.
16. There is no evidence before me to suggest that, since the implementation of the 2010 permission, the appeal site has ever been physically sub-divided so to provide two (or more) separate and distinct areas. It is also clear that the appellant has occupied the appeal site for the duration of this time in connection with his coach and minibus company. The only question therefore is whether the use of the site by UBRS resulted in a material change of use. The key assessment in this regard, is whether there is a change in the definable character or the use, and whether any such change is material.
17. The appellant does not dispute that UBRS were allowed to use the parking area at the appeal site to park their vehicles for around two years. In his response dated 14 September 2022 to the Planning Contravention Notice issued by the Council,

³ *Burdle & Williams v SSE & New Forest DC* [1972] 1 WLR 1207

the appellant stated that the appeal site was not being used as a vehicle recovery and repairs place, and that the site had been used as a depot for his own home to school services. It was stated though that the owner of UBRS had been given permission to park their vehicles on the site, and those vehicles would commonly go out in the morning and return in the evening.

18. The sum total of evidence put forward by the Council in relation to the use of the site by UBRS essentially amounts to a Google Street Image from October 2020, and Companies House records which give the registered address of UBRS as the appeal site. In the Google Street image one vehicle recovery low loader can be seen parked within the site, with a second parked on the highway. A small sign seemingly advertising UBRS is also leaning against the front boundary fence. The only other vehicles visible within the site are minibuses and a van.
19. The Council do not bring forward any evidence to contradict the appellant's claim that UBRS did not carry out vehicle repairs at the site or do anything other than park some of their vehicles on the land. The Companies House records also do not assist in this regard. When considering the existing use of the site for the storage of coaches and minibuses, in my judgement, the mere existence on the site of a small number of vehicles associated with UBRS would be so slight as to not result in a definable change in the character or use of the land. Consequently, I am of the view that the appeal site remains as a single planning unit and a material change of use of the land did not occur as a result of UBRS use of the site.
20. The Council has drawn my attention to paragraph 12 of the costs decision⁴ issued on 15 January 2025 in relation to the previous notice. The Council contend that this demonstrates that the Inspector found there to have been an intervening unauthorised use. I disagree. The costs decision makes no conclusion on any intervening use, and paragraph 12 simply indicates that the previous Inspector had concerns that the allegation in the previous notice did not reflect the activities that were taking place on the land at the time of their site visit. Accordingly, the costs decision does not aid the Council's case.
21. The enforcement notice alleges a "*material change of use of the land to a coach and minibus depot and (my emphasis) garage for vehicle repairs*". The notice therefore alleges a mixed use. The appellant does not dispute that repairs to his own fleet of coaches and minibuses have taken place at the site, indeed evidence has been provided to demonstrate that point. The Council has not brought forward any evidence to show that any vehicle repairs have taken place outside of those to the appellant's own vehicles, or that any repairs that have taken place on site are anything other than in relation to the routine maintenance of vehicles associated with the coach and minibus depot.
22. The available evidence therefore indicates that any vehicle repairs that have taken place at the appeal site are not sufficient to be a primary use in their own right and result in a mixed use. Instead, I find that the primary use of the land has remained as a coach and minibus depot, with any vehicle repairs being incidental to that use. Reference to a "*garage for vehicle repairs*" should therefore be removed from the allegation.
23. The Council has referred to condition 7 of the 2010 permission which states:

⁴ APP/B4215/C/24/3337674

“This planning permission relates only to the storage of buses and mini buses and no repair, maintenance of these vehicles shall take place at any time.”

24. As set out above, there is clear evidence of the appellant's coaches and minibuses being repaired and maintained at the appeal site. Whilst this would appear to be in breach of condition 7, it does not automatically follow that a material change of use of the land to a mixed use has occurred. It must be determined that those activities have resulted in a change in the definable character or the use, and whether any such change is material. For the reasons I have already set out, I have found they did not.
25. The enforcement notice is clear in that it was served under section 171A(1)(a) of the 1990 Act and is directed at a material change of use of the land. Had the Council sought to allege a failure to comply with any condition attached to the 2010 permission, the notice would have been served under section 171A(1)(b) of the 1990 Act. I have given consideration as to whether the notice could be corrected or varied to reflect a breach of condition 7, however in my view any such change would fundamentally affect the cases both parties may have wished to have put. Consequently, I cannot be certain that injustice to either party would not arise were I to do so. Whether there has been a breach of condition(s) attached to the 2010 permission is a matter for the Council to resolve.
26. To summarise, the appeal site is a single planning unit and has remained so since at least the implementation of the 2010 permission. The primary use of the appeal site since that time has been as a coach and minibus depot and there has been no subsequent material change of use of the land, either by the temporary parking of vehicles belonging to UBRS or by the carrying out of vehicle repairs, in the intervening period. The operation of the coach and minibus depot has therefore been carried on pursuant to the 2010 permission.
27. The appeal on ground (c) therefore succeeds in part, regarding the material change of use of the land, and I shall correct the notice accordingly.

Ground (d)

28. For the appeal on ground (d) to succeed it has to be shown that at the time the notice was issued it was too late to take enforcement action. The burden of proof is on the appellant, and the relevant test is the balance of probability. If the local planning authority has no evidence itself to contradict or otherwise make the appellant's version of events less than probable, an appeal on ground (d) can succeed, provided that the appellant's evidence alone is sufficiently precise and unambiguous.
29. Following the ground (c) appeal above, the allegation now solely relates to the operational development in the form of the erection of a canopy. It is not disputed that the operational development attacked by the enforcement notice was substantially completed prior to 25 April 2024, before the legislative changes to time limits came into effect. Therefore, no enforcement action can be taken after a period of four years beginning with the date on which the operations were substantially completed.
30. The enforcement notice subject of this appeal was issued on 25 September 2024, however it was issued under the “second bite” provisions under section 171B(4) (b) of the 1990 Act. The relevant period in this case is therefore four years prior to

the previous notice which was issued on 8 January 2024. The appellant therefore needs to demonstrate, on the balance of probabilities, that the development had been substantially completed on or before 8 January 2020.

31. The appellant's case is that the canopy has been on site since around 2015. Indeed, it is clear from the Google Street view images provided by both parties that a metal canopy was first erected at the appeal site at some point between July 2014 and July 2015. The appellant acknowledges that "additions" have been made to this original canopy structure, although it is argued that only a fascia board and side panelling have been added and that these are temporary in nature.
32. In the Google Street view image from July 2015 the canopy is an open sided structure of modest height, set comfortably below the height of the roof ridge of the brick building to which it is attached. The canopy can also be seen to be a similar height to an outbuilding at an adjacent property on the opposite side of the footpath immediately to the west of the site.
33. However, at some point between July 2019 and October 2020 the height of the canopy was significantly increased. Google Street View images from these dates show that the canopy, whilst still an open sided structure, was now of a similar height to the roof ridge of the brick building to which it was attached and was noticeably taller than the outbuilding at the adjacent property. Photographs taken by the Council during site visits on 3 and 22 November 2023 reveal that, at some point between those dates, corrugated metal cladding was added to the metal frame of the canopy, effectively enclosing it on three sides.
34. The Council have drawn my attention to a principle established in the case of *Oates*⁵. In summary, the retention of some of the fabric of an original building within the building that has been erected does not preclude a finding by the decision maker, as a matter of fact and degree, that the resulting building is, physically, a new building, and that the original building has ceased to exist.
35. I accept that much of the canopy's metal frame is likely to have been part of the original frame. The same could also be said for the sheeting on the canopy roof. However, the overall height of the canopy has been significantly raised which would have necessitated the introduction of new materials. Furthermore, the canopy is no longer open sided, with the corrugated metal sheeting applied to three sides. The effect of these works, in my view, are so extensive as to have created a new building.
36. The canopy shown in the photographs taken on 22 November 2023 and as existed on site at the time of my visit is materially different from that which existed in July 2015. It is established case law that substantial completion requires a fully detailed building, and in my view, it was not until these additional works were carried out in November 2023 to create the canopy in its current form that the building was substantially completed.
37. The appellant has therefore failed to show, on the balance of probability, that the development was substantially complete by 8 January 2020. Accordingly, the ground (d) appeal fails.

⁵ *Oates v SSCLG* [2018] EWCA Civ 2229

Ground (a) and the deemed planning application

38. The terms of the deemed application are directly derived from the allegation. As I have deleted reference to the material change of use of the land to a coach and minibus depot and garage for vehicle repairs, my consideration is limited to the erection of the canopy.

Main Issue

39. The single main issue is the effect of the development on the character and appearance of the area.

Reasons

40. The appeal site is located within the grounds of Longsight Sports and Social Club on the south side of Kirkmanshulme Lane. The site comprises a hard surfaced parking area, and a brick building used for the storage of various items in connection with the coach and minibus business operating from the land. Notwithstanding the Sports and Social Club and St Peter's High School, which is found a short distance to the east, the surrounding area is otherwise predominately residential in nature and is characterised by dwellings constructed in red brick.
41. A flat roofed canopy has been built to the side of the existing brick building, covering much of the area between the building and the western boundary of the site. It is constructed in corrugated metal sheeting over a metal frame and is enclosed on three sides. Its materials are in stark contrast to the red brick and tiled pitched roof of the building to which it is attached, as well as other surrounding buildings.
42. The canopy structure is of a utilitarian and industrial appearance which appears at odds with both the host building and other nearby properties. Despite being set back to the rear of the appeal site, the canopy remains highly visible from both Kirkmanshulme Lane to the front and Peel Grove to the rear. By virtue of its size, height, and design, the canopy is an overly dominant and distinctly unattractive structure which appears as an incongruous feature that is out of keeping with the character and appearance of the surrounding area.
43. I therefore conclude that the development is harmful to the character and appearance of the surrounding area. It is contrary to policies SP1, DM1, and EN1 of Manchester's Development Framework Core Strategy Development Plan Document (adopted July 2012). These policies seek, amongst other things, to ensure that development is of a high quality, including having regard to the character of the surrounding area, taking into account various factors including siting, layout, scale, form, materials, and detail.
44. The Council have also referred to saved Policy DC26 of the Unitary Development Plan for the City of Manchester (adopted July 1995) which is primarily concerned with noise, and Policy JP-S1 of the Places for Everyone Joint Development Plan Document (Adopted March 2024) which focuses on tackling climate change through sustainable developments. These policies are not directly applicable as the ground (a) appeal now relates solely to the erection of the canopy.

Ground (f)

45. An appeal under ground (f) may be brought if it is felt that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. In this instance, it is clear that the purpose of the notice is to remedy the breach of planning control, not just merely to remedy any injury to amenity.
46. For the reasons set out above, I have concluded that the appeal on ground (c) succeeds in part with regard to the use of the land in question and I shall delete the notice's requirement to cease the use of the land as a consequence. However, that still leaves the notice's requirements regarding the operational development stated therein, namely the erection of the canopy.
47. With regard to the operational development, I do not consider that the requirements are excessive or that lesser steps could remedy the breach of planning control. The notice does no more than seek remedy of the breach. There are no lesser steps drawn to my attention by the appellant or any obvious alternatives that would remedy the breach of planning control, which is the purpose of the notice. Therefore, in relation to the erection of the canopy, the appeal on ground (f) fails.

Ground (g)

48. The appeal on ground (g) is that the time given to comply with the requirements of the notice is too short. The notice specifies a period of two months after the notice takes effect.
49. The appellant argues that the compliance period is insufficient to carry out the required works, as the need to relocate would have a significant impact on the business and would leave vulnerable service users at immediate risk and harm. A compliance period of at least twelve months has been requested.
50. Following my findings above, the requirement to cease the use of the land as a coach and minibus depot has now been deleted. This means that the only remaining requirement of the notice is to remove the canopy. There is no evidence before me to demonstrate that the removal of the canopy would have any significant impact on the businesses ability to continue to operate as it currently does, nor that it would be difficult to physically remove the canopy within a two-month period. Accordingly, the appeal on ground (g) fails.

Conclusion

51. For the reasons given above I conclude that the appeal succeeds in part, on ground (c), but otherwise fails. I have upheld the enforcement notice, with corrections, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

David Jones

INSPECTOR