



Appeal Decision

Site visit made on 23 February 2026

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2026

Appeal Ref: APP/Z4310/C/25/3362320

Land on the north side of Brownlow Hill, Liverpool L3 5RE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Britannia Hotels Limited against an enforcement notice issued by Liverpool City Council.
- The notice was issued on 17 February 2025.
- The breach of planning control as alleged in the notice is the use of the land as a car park (Use Class 'sui generis').
- The requirements of the notice are to:
 - Permanently cease the use of the land, as identified on the attached plan for the purpose of a car park (Use Class 'sui generis.') and
 - Permanently remove all associated items from the land including vehicles, signage, advertising and ticket machines.
- The period for compliance with the requirement is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (d) 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.

Summary of Decision: The appeal is allowed and the notice is quashed.

Matters concerning the Notice

1. S173(1)(a) of the Town and Country Planning Act 1990 (the Act) states (1) An enforcement notice shall state - (a) the matters which appear to the local planning authority to constitute the breach of planning control. S173(2) goes on to state that 'A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.'
2. S55 of the Act defines development as 'the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.'
3. Under paragraph 3 of the enforcement notice (the notice), the alleged breach of planning control is 'Without planning permission, use of land as a car park (Use Class 'sui generis')'. However, 'Use' of land is not an act of development; the '*material change of use*' of land, however, is.
4. Whilst I can correct a notice, correcting the allegation to refer to a 'material change of use of the land for use as a car park' raises further issues. The Council contends the car park was brought into use following the granting of planning permission in 2006 and/or 2009 when those permissions were implemented, notwithstanding the appellant's argument to the contrary. Even adopting the latest possible date of 2009, the material change of use still occurred more than 10 years before the notice was issued. Therefore, correcting the allegation to refer to a '*material change of use*', on the face of it, would still not be a breach of planning

control because, as a matter of fact, it is the Council's position that the material change of use of the land took place more than 10 years prior to the notice being issued. Therefore, correcting the notice as such would not be appropriate.

5. Since s72(1)(b) of the Act provides for the imposition of a time limit and restoration condition, and a planning permission granted subject to such a condition is a planning permission for a limited period, it is implicit that the condition circumscribes the entire authorisation of the use and so survives for the purposes of enforcement action. Therefore, there is the possibility that the Council is in fact alleging the breach of condition 1 attached to planning permission 09F/0022, which states '*This permission is granted for a limited period which will expire on 7th April 2015 and at the expiration of this period the use shall cease unless, on application to the Council, permission has been granted for a further period*'. However, the reasons for issuing the notice, as set out under paragraph 4 of the notice, make no reference to a breach of condition, which therefore contradicts this interpretation.
6. A notice that fails to identify the breach with sufficient clarity is invalid as a matter of law. Given the above, the ambiguity and uncertainty of what the alleged breach of planning control is results in the notice being invalid. The parties have been given the opportunity to comment on the implications of the above and whether the invalid notice could be corrected to a breach of condition notice without causing injustice to either party. However, the Council has provided no comment. Given the Council's silence on the matter regarding whether the notice is alleging a material change of use of the land or a breach of condition, the ambiguity and uncertainty of the notice and whether it could be corrected without causing injustice remains unresolved.
7. Given the above, I am not satisfied that I can correct the notice without causing injustice to one party or the other. The notice is therefore quashed.

Conclusion

8. The enforcement notice will be quashed. In these circumstances, the appeal on grounds (a), (d) and (g) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act do not fall to be considered.

A Walker

INSPECTOR