



Appeal Decision

Site visit made on 20 January 2026

by **J Moss BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 April 2026

Appeal Ref: APP/T5150/C/23/3326383

Land adjacent to Ace Cafe, North Circular Road, Stonebridge, London NW10 7UD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Rami Jajaa of IP Motors Ltd against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice was issued on 13 June 2023.
 - The breach of planning control as alleged in the notice is, without planning permission, the material change of use of the premises to a mixed use as a car sales and car wash ("the unauthorised change of use"), and without planning permission, the erection of a canopy structure to the front area of the premises.
 - The requirements of the notice are:
 - STEP 1 Cease the use of the premises as a car wash.
 - STEP 2 Demolish the canopy structure to the front area of the premises.
 - STEP 3 Remove all debris, materials and items, arising from the Step 2 and remove all debris, items and materials associated with the unauthorised use and development from the premises, and restore the site to its original condition.
 - The period for compliance with the requirements is three months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (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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Summary Decision: The notice is invalid. Otherwise, the appeal is dismissed, planning permission is refused and the notice is corrected and upheld.

The Notice

1. Before considering the grounds of appeal, I have a duty to put the notice in order, if necessary. The powers transferred to Inspectors under section 176(1)(a) of the 1990 Act include to correct any defect, error or misdescription in the enforcement notice or, under section 176(1)(b), to vary the terms of the enforcement notice. In each case, the only test is whether the correction or variation would not cause any injustice to the appellant or the local planning authority.
2. The parties have received two separate notes from me setting out my concerns with regard to the notice. The first prior to the site visit, and the second sent after. The notice alleges both a material change of use (MCU) and an operation comprising the erection of a canopy structure. The MCU alleged is to 'a mixed use as a car sales and car wash'. Both of my notes highlight my concerns with regard to this element of the matters alleged in the notice.
3. Before I consider my concerns, I deal first with a matter raised by the appellant. The appellant suggests that the notice is defective because a component of the mixed use alleged (i.e. car sales) has the benefit of planning permission. Because of this, the suggestion is that the notice should not refer to this activity.

4. A mixed use is a single, sui generis use taking place on a planning unit of its own. Where there is an allegation of a change of use to a mixed use, to be accurate (and therefore valid) an enforcement notice must mention all components that make up the new mixed use. It might well be the case that a component of an alleged mixed use was previously lawful when carried out on its own or as part of another mixed use. Nevertheless, an enforcement notice should include it as a component of the mixed use alleged.
5. In the case before me there is no dispute that car sales was one of the activities, amongst others, taking place on the site at the time the notice was issued. It is, therefore, a component of the mixed use that was taking place at this time. I note the planning permission, reference 16/5470, which was granted permission on 15 May 2017 for the 'demolition of the existing porta-cabin and retention of the change of use for car storage and sales (Use class Sui Generis)'. This appears to grant permission for a mixed use (i.e. car sales and car storage) and there appears to be no dispute that this is a lawful use of the site. However, by issuing the notice, the Council suggest that the introduction of a car wash on the site has resulted in the change of use of the site to a materially different mixed use. Accordingly, that the mixed use alleged includes a component use that was previously permitted does not make the notice defective.
6. Notwithstanding the above, I am concerned that the notice does not accurately describe the MCU that has occurred. In addition to the car wash, in evidence the Council refer to a component of the current mixed use as 'car sales/**storage**' (my emphasis). This is consistent with what was permitted in 2017. At the site visit I noted cars that appeared to be stored on the site, although I acknowledge that my site visit is only a snap shot and undertaken some time after the issue of the notice. Nevertheless, car storage is not mentioned in the notice. Furthermore, whilst I have asked the parties about this, neither have adequately addressed this in their response. This leaves me with some difficulty in determining whether or not the allegation of a mixed use, which excludes car storage as a component of the mixed use, is accurate.
7. I have further concerns that the allegation of a MCU to a mixed use of the entirety of the site is accurate. At the site visit I noted that the land to which the notice relates includes a large, enclosed area on which I observed activities including the car wash, vehicles for sale and storage. This enclosed area did not, however, occupy the entirety of the site. There was also an area on the southern part of the site which was enclosed separately from the larger northern part and upon which I observed other activities taking place, including what appeared to be a vehicle repair workshop and yard, and a tyre repair and replacement workshop and yard.
8. When asked about this in my second note to the parties, the appellant says that there is 'a mechanic for the cars and storage' on this part of the site and that how the site is used at present is materially the same as at the time the notice was issued. On the other hand, the Council say that 'the use of the site, and how it has been divided up, is different to when the notice was originally issued', although they only point to the recent addition of skip storage on the site. There is clearly a difference between the parties on what was taking place at the site prior to or at the time the notice was issued. This includes whether there is a single or multiple planning units on the site.

9. All of the above considered, I cannot be satisfied that at the time the notice was issued an alleged breach of planning control comprising an MCU of the entirety of the site to a mixed use as a car sales and car wash was correct. I have considered whether I am able to correct the notice so that it accurately describes how the site was used at the time it was issued. There is, however, too much ambiguity in the evidence for me to determine how the use might best be described. There also leaves the question of how the requirements of the notice should be corrected to be consistent with a corrected allegation.
10. Even if I were to conclude that the allegation of a mixed use of the whole site to car sales and car wash were correct, what is alleged in the notice is not consistent with its requirements. Put simply, a mixed use is alleged but the notice does not require a mixed use to cease. Instead, step 1 requires the cessation of a different use. Whilst this other use is a component of the mixed use alleged, it is still a different use to the use that is alleged.
11. I understand that the Council drafted the notice so that it purposefully targets the car wash element of the mixed use, and that it has no objection to the continued use of the site for car sales. Nevertheless, as the notice does not require the mixed use to cease, I am concerned that the provisions of section 173(11) of the 1990 Act would be engaged in this case and that, once the notice is complied with, planning permission shall be treated as having been granted by virtue of section 73A for a mixed use of the site as a car sales and car wash.
12. This is clearly not the Council's intention. This is plain, having considered what is within the four corners of the notice, which includes the reasons for issuing the notice. Schedule 3 of the notice sets out the reasons why the "unauthorised use" (which the notice defines as a mixed use as a car sales and car wash) is harmful. There is, therefore, clearly conflict in the notice, between the reasons for its issue and what it will permit once it is complied with. Accordingly, the notice is defective in this respect.
13. I note the Council's suggestion that what would result from the notice as drafted is permission granted by reason of section 173(11) of the 1990 Act for a use of the site for car sales alone, which I note is a component of the mixed use permitted in 2017. However, if the Council were correct, the use of the site for car sales following compliance with the requirements of the notice would not be controlled by the conditions and limitations of the 2017 permission. This includes conditions 3 and 4 that require the provision and retention of cycle parking spaces and the use of oil interceptors in the draining of the site. This is because section 173(11) would grant a new planning permission that would not be subject to any conditions or limitations. This cannot be the intention of the Council, having regard to the reasons for the conditions imposed on the 2017 permission.
14. The Council has suggested correcting the notice to allege only a MCU to a car wash. This would not, however, be an accurate description of how the site was used at the time the notice was issued. I say this not least because there appears to be no dispute that, at the very least, car sales was an active use of the site at the time the notice was issued and that it continues to the present time. I note the revised plan provided by the Council, which identifies little more than the land occupied by the canopy structure. Whilst cars were being washed on this part of the site at the time of my visit, I cannot be satisfied that only this part of the site was being used as a car wash or that this part of the site was a planning unit of its own.

Indeed, I observed cars driven into the site and waiting to be washed on land outside of that identified on the Council's revised plan. I am not persuaded that the car wash activity is not part of a mixed use of the site.

15. I have considered whether I could correct the notice to require the cessation of the mixed use. This would, however, make the notice more onerous and would, therefore, cause injustice to the appellant.
16. On a final matter, I acknowledge that section 173(4)(a) of the 1990 Act informs that the purpose of an enforcement notice can be to remedy the breach of planning control alleged 'by restoring the land to its condition **before the breach took place**' (my emphasis). However, in my judgement the requirement to 'restore the site to its original condition' does not achieve this purpose. I find this to be an ambiguous requirement that does not accord with section 173(4) of the 1990 Act.
17. In view of all of the above, I can only conclude that the notice is defective. I am unable to use my powers granted under section 176(1) of the 1990 Act in this case to correct the defects in the notice as I cannot be certain of how the notice should be corrected so that it would be accurate. Furthermore, any corrections I have considered would cause injustice to the appellant.
18. It does not, however, follow that the notice will be quashed. The flawed parts of the notice are discrete. Accordingly, I intend to correct the defect in the notice by removing an allegation of a MCU, as well as removing the associated requirements. This would include removing the requirement to 'restore the site to its original condition'. In doing so injustice would not be caused to either party, particularly in view of the provisions of section 171B(4) of the 1990 Act to issue a further notice, should it be considered expedient to do so.
19. I will, therefore, move on to consider the grounds of appeal insofar as they relate to the allegation of the erection of a canopy structure to the front area of the premises.

Ground (c)

20. To succeed on ground (c), the appellant must demonstrate that, on the balance of probability, the matters alleged in the notice, corrected as I intend, do not constitute a breach of planning control. The burden of proof is on the appellant. As I note above, the matter that will remain in the notice once corrected will be the erection of a canopy structure to the front area of the premises.
21. The appellant suggests that the canopy has been moved to its current location from an alternative location on the site. The appellant refers to the 'visual appearance, function, or impact on neighbouring properties' of the canopy, 'compared to the previous location'. They say that the change in location is 'not substantial enough to trigger the need for planning permission'.
22. Development is defined in section 55(1) of the 1990 Act as including the carrying out of building or other operations on land. The appellant does not dispute that a canopy structure has been erected in the location specified in the notice. Neither do they make the case that the canopy structure is not development. Indeed, it has the appearance and size of a structure that has been built (i.e. put together) on site. In particular, the timber frame that supports the solid roof and partly enclosed sides

appears to have been bolted together and is, in my view, too large to have been brought onto the site in one part.

23. Whilst the appellant suggests that the canopy has been moved within the site, there is no suggestion that it was moved in one piece. Moreover, having regard to the means of construction of the canopy, I am not persuaded it would withstand being moved in one piece. Furthermore, the canopy is physically attached to the land as the timber frame has been bolted to the ground.
24. For these reasons, I am satisfied that the canopy is development for the purposes of section 55(1) of the 1990 Act.
25. Section 57 of the 1990 Act provides that planning permission is required for the carrying out of any development of land. The need for planning permission for development is not, therefore, determined by the effect of the development on such matters as the visual appearance of the area. What is determinative is whether or not development has occurred.
26. That a similar canopy previously existed on the site elsewhere does not negate the need for planning permission for a new canopy in a new location, even if the former canopy had been on site for more than 10 years.
27. All things considered, I conclude that the canopy structure is development. I have not been made aware of any reason why this development would not require the benefit of express planning permission, in accordance with section 57 of the 1990 Act, and it has not been suggested that the necessary planning permission has otherwise been granted. Accordingly, and on the balance of probability, the erection of a canopy structure to the front area of the premises constitutes a breach of planning control. For this reason the ground (c) appeal must fail.

Ground (a) and the deemed application for planning permission

Preliminary Matters

28. Since the appeal was made there has been a revision to the National Planning Policy Framework (the Framework). A consultation document on proposed reforms to the Framework has also been published. However, having regard to the main issue in this case I have not sought the parties' views on any changes to the Framework, including those proposed.

Main Issue

29. The appeal on ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.
30. I note the substantive reasons for issuing the enforcement notice insofar as they relate to the erection of the canopy structure and from these I have identified the main issue in this case as the effect of the development on the character and appearance of the area.

Policy and Guidance

31. The development plan for the area includes the Brent Local Plan 2019 - 2041, adopted February 2022 (BLP) and the London Plan, adopted March 2021 (LP). A number of development plan policies are referred to in the enforcement notice, but

many of these are clearly relevant to the MCU, which is no longer the subject of this ground (a) appeal. I have identified the following policies mentioned in the notice that appear to be most relevant to my determination of the deemed planning application for the canopy structure.

32. Within the BLP, Policy DMP1 (Development management general policy) requires new development to be, amongst other matters, of a siting, materials, detailing and design that provides high levels of external amenity and complements the locality. Policy BD1 (Leading the way in good urban design) informs that all new development must be of the highest architectural and urban design quality.
33. In addition to the above, the appellant refers to Principle 4.1 of the Brent Design Guide SPD 1, dated November 2018. At 4.1 b) this informs that 'non-residential uses should be treated the same as residential uses; incorporated into the streetscene and wrapped with other uses as necessary to provide active frontage'.
34. The enforcement notice refers to Policy D4 (Delivering good design) of the LP, which is a detailed design policy that concentrates on the design process for new development. I can see that the aim of the policy is to secure design quality in new development. However, having regard to the particular requirements of the policy, I have some difficulty in applying this to the development before me. The Council has not set out the relevance of this policy in its evidence.

Reasons

35. The appeal site is a linear parcel adjacent to a busy highway and very close to a main junction off the North Circular Road. The adjoining highway provides access from the North Circular Road to the industrial estate and housing to the north west of the site. The site is located between a new warehouse/industrial/office building and associated car park to the south west, and land occupied by the long-standing Ace Café and its associated forecourt carpark to the north east.
36. The site is enclosed with open metal fencing and has an appearance typical of a car storage type site found on many industrial estates. Nevertheless, the site is both physically and visually detached from the wider industrial estate to the north west. This is because the main views of the site are from the highway to the south east where the site is viewed within the context of the development either side of the site. As mentioned above, this comprises the newly constructed building and the site occupied by Ace Café. Although very different forms of development, these both make a positive contribution to the character and appearance of the immediate area surrounding the appeal site. The new development to the south west is a sleek, modern, commercial building, whilst the Ace Café site is a more historic, but nevertheless well-kept building and forecourt.
37. The development that remains the subject of this ground (a) appeal comprises a mostly open sided canopy located along a large section of the front boundary of the site, shared with the footway along the adjoining highway. The canopy has been constructed with a visible timber frame and timber roof joists, which have been covered with timber sheets and roofing material. As such, the canopy has a particularly basic design and the material used are not, in my judgement, high quality. The design and means of construction give the canopy a very functional character. It is clear that little thought has been given to ensuring that this development is sympathetic to other built development within the site's context, as described above.

38. Views of the structure from the adjoining highway are partly obscured by various banner advertisements. However, as the canopy structure is tall, it rises above the open metal fencing that encloses the site along the front boundary. The canopy is, therefore, a highly visible structure, particularly when viewed from the adjoining highway.
39. I acknowledge that the design of the canopy might well reflect the commercial nature of the site. Nevertheless, I can only regard the development as having a poor, rather than high design quality, and that it fails to complement the existing development within the locality. The location of the development, along the front boundary of the site, makes this a prominent form of development and only exacerbates the harm it causes to the amenity of the surrounding area. I cannot, therefore, regard this as providing an active frontage that is encouraged by the SPD1 Design Guide.
40. For the reasons given above, I conclude that the development has an unacceptable effect on the character and appearance of the area, in conflict with Policies DMP1 and BD1 of the BLP. It also fails to accord with the Brent Design Guide SPD 1.

Other Matters

41. The appellant suggests that the development improves the 'employment function of the site'. The part of the site covered by the canopy appears to be mainly used to wash vehicles, which is an element of the mixed use that was the target of the notice. Putting aside whether or not such a use of the site is permitted, I have no doubt that the canopy facilitates such a use, which would add a degree of weight in favour of the development. However, I have no reason to doubt that such a benefit could not be derived from some alternative form of structure with a better design quality that complements the locality. The harm caused by the canopy structure subject of this appeal is not outweighed by its benefits.
42. Under the ground (f) appeal, the appellant suggests the relocation of the canopy to an alternative location within the site in order to 'eliminate any perceived impact on the street scene and bus stop'. The ground (a) appeal is a deemed application for planning permission for the whole or part of the matters alleged in the notice. The canopy erected in an alternative location on the appeal site would, in my judgement, be an entirely new development and would not, therefore, comprise part of the matters alleged. It is not, therefore, within my power to grant permission for some other scheme of development within this ground (a) appeal.

Planning Balance and Conclusion on Ground (a)

43. The determination of this ground (a) appeal and the deemed planning application must be in accordance with the development plan unless material considerations indicate otherwise. I have considered whether conditions would overcome the harm caused in this case, but conclude that they would not. Accordingly, and having regard to the above, I have not been able to identify material considerations of sufficient weight to indicate my determination of this ground (a) appeal and the deemed planning application should be made otherwise than in accordance with the development plan when read as a whole. Accordingly, the ground (a) appeal should fail.

Ground (f)

44. The purpose of the enforcement notice is to remedy the breach. Accordingly, the ground (f) appeal is that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control. I intend to delete the requirements of the notice that relate to the MCU. This leaves the requirements set out in step 2 and certain elements of step 3.
45. Much of the case made by the appellant under ground (f) has been considered under the ground (a) appeal. I have mentioned above the alternative suggested by the appellant, to vary the terms of the notice to relocate the canopy elsewhere on the site, although they do not suggest where. Notwithstanding this, I have said above that I am not persuaded the canopy would withstand being moved in one piece. It is likely to require dismantling and then construction in order to be erected elsewhere on the site. Such works are likely to require planning permission and a ground (f) appeal is not a means of obtaining a planning permission for an alternative scheme. Moreover, this alternative would not achieve the purpose of remedying the breach of planning control in this case.
46. No alternative or lesser steps have been suggested to achieve the purpose of remedying the breach of planning control in this case and, having regard to both the nature of the breach and requirements of the notice, no other steps that would achieve this purpose are obvious to me. On this basis I can only conclude that the steps required in the notice are necessary and proportionate. For these reasons, the appeal under ground (f) should fail.

Ground (g)

47. An appeal on ground (g) is that the period specified in the notice falls short of what should reasonably be allowed. The notice specifies a period of 3 months after it takes effect. The appellant suggests that a 12 month period is necessary.
48. I acknowledge that parts of the site would have to be cleared of vehicles and other such items stored in order to demolish the canopy structure. However, the appellant suggests that the structure has been moved from one part of the site to another. There is nothing in the evidence to suggest that this was done without any great difficulty.
49. The structure only occupies a small portion of the wider site. A such, large parts of the site are likely to be unaffected by the work. Furthermore, the canopy is a very simple structure. Accordingly, I am not persuaded that its dismantling or demolition would be a lengthy process, once appropriate contractors have been secured.
50. On this point, I cannot see that a specialist contractor would be required and there is no suggestion that there would be any difficulty in securing a building contractor from the area to carry out the necessary demolition works. The appellant has not provided any evidence to substantiate the suggestion that 3 months would be required to organise the demolition alone.
51. The appellant has not provided any substantiated evidence to show that the requirements of the notice that will remain following its correction cannot be complied with within 3 months. As such, I have no reason to conclude that the period specified in the notice falls short of what should reasonably be allowed. For this reason, the ground (g) appeal should fail.

Overall Conclusions

52. The breach of planning control alleged in the notice comprises two separate matters; a MCU and an operation. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control and the steps required for compliance in so far as it relates to the allegation of a MCU.
53. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act, for the reasons I have given. However, as the error in the notice relates only to the alleged MCU, I will correct the notice to remove this allegation. I will also remove certain of the requirements that also make the notice defective.
54. In these circumstances, the appeal on the grounds set out in section 174(2)(a), (c), (f) and (g) of the 1990 Act and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act does not fall to be considered insofar as they relate to the allegation of a MCU.
55. Otherwise, I conclude that the appeal should not succeed. I shall uphold 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 for the operations as described in the notice, as corrected.

Formal Decision

56. It is directed that the enforcement notice is corrected by:
- The deletion from schedule 2 of the words "Without planning permission, the material change of use of the premises to a mixed use as a car sales and car wash. ("the unauthorised change of use"). AND";
 - The deletion from schedule 4 of step 1 in its entirety;
 - The deletion from step 3 of schedule 4 the words "and remove all debris, items and materials associated with the unauthorised use and development"; and
 - The deletion from step 3 of schedule 4 the words ", and restore the site to its original condition".
57. Subject to the corrections, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.

J Moss

INSPECTOR