



Appeal Decisions

Site visit made on 14 April 2026

by **A Walker MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 May 2026

Appeal A Ref: APP/M3455/C/24/3350569

Appeal B Ref: APP/M3455/C/24/3350570

Former Cinema Site, Broad Street, Hanley, Stoke-on-Trent ST1 4HG

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeals are made by Mr Ian Woolliscroft on behalf of Woolliscroft Homes Ltd and Ms Katherine Francis Brakes against an enforcement notice issued by Stoke-on-Trent City Council.
- The notice was issued on 23 July 2024.
- The breach of planning control as alleged in the notice is without planning permission, change of use to pay and display car park and installation of associated structures including barriers and pay stations.
- The requirements of the notice are to:
 - i) Cease the use of the land as a car park.
 - ii) Remove from the Land all equipment/parking machines and all items/materials brought onto the Land in connection with the parking use.
 - iii) All existing vehicular accesses onto the site shall be adequately secured to prevent further occupation. Any such security measures shall not exceed 1m in height.
- 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), (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.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the formal decision.

The ground (b) appeals

1. In appealing on ground (b) the burden of proof is firmly on the appellant to demonstrate that the alleged breach of planning control has not occurred as a matter of fact.
2. Section 171A(1) of the Town and Country Planning Act 1990 (the Act) states 'For the purposes of this Act— (a) carrying out development without the required planning permission; or (b) failing to comply with any condition or limitation subject to which planning permission has been granted, constitutes a breach of planning control.'
3. Planning permission was granted for the use of the appeal site as a car park in 2019 (Council reference 63447/FUL). Condition 1 attached to that permission states 'The use hereby permitted shall cease on or before 08/03/2022 and the land shall be left in a condition, which has been agreed in writing by the Local Planning Authority.' A further planning application was granted on 11 July 2022 for 'Retention of temporary pay and display car park for a further 12 month period'¹. This included a condition requiring the use to cease on or before 13 July 2023.

¹ Council reference 67890/FUL

4. 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.
5. There is no dispute that the use of the appeal site as a car park did not cease after 13 July 2023 and that it has continued since. Where planning permission is granted for a use of land subject to a time-limited condition, the continuation of the use after the specified period is not development. Therefore, a breach of planning control as set out under s171A(1)(a) of the Act has not occurred.
6. In light of the above, the Council confirm that the alleged breach of planning control should in fact be a breach of condition 1 attached to planning permission 67890/FUL, under s171A(1)(b) of the Act.
7. Under s176(1) of the Act, I have the power to correct any defect, error or misdescription in the enforcement notice and vary the terms of the enforcement notice, if I am satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.
8. The Council confirms that no injustice would be caused to them if I were to correct the notice to reflect the above. The appellant also confirms that no injustice would be caused, providing their ground (a) appeal could still be considered.
9. Accordingly, the ground (b) appeals succeed as the matters alleged in the notice have not occurred. I shall correct the notice to omit reference to the alleged breach of planning control constituting a material change of use and substitute it for a breach of a condition, as set out above. I am satisfied this would not cause injustice to any party.

The ground (a) appeals and the deemed planning application

Procedural Matter

10. The notice shall be corrected to allege a breach of condition rather than a material change of use. This has implications on the ground (a) appeals as what would in effect be sought under the ground (a) appeals and the deemed planning application is the continued use of the site as a car park in breach of condition 1 attached to planning permission 67890/FUL rather than planning permission for the material change of use to pay and display car park and installation of associated structures including barriers and pay stations. These are substantively different forms of development. However, they would result in the same outcome if the ground (a) appeal was to succeed, ie the regularisation of the car park.
11. The power for an Inspector to correct or vary a notice derives from s176(1) of the Act. The test of whether a notice can be corrected or varied is whether injustice would be caused to either party. It is not one of substance. On this basis, the notice can be corrected and the ground (a) appeal proceed on the above basis as no injustice would be caused to either party.

Main Issue

12. The main issue is the effect of the development on the character and appearance of the area, including whether it would preserve or enhance the character or appearance of the City Centre Conservation area (the CA).

Reasons

13. The appeal property is situated within the CA. Accordingly, I have applied the statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paid special attention to the desirability of preserving or enhancing the character or appearance of the CA.
14. The appeal site comprises a car park on the site of a demolished building. Broad Street generally consists of modern and historic commercial and civic buildings of varying scales. Buildings are generally positioned on the back of the pavement, providing a frontage with the street.
15. Although a large section of the appeal site falls outside the boundary of the CA, the front section lies within it. The significance of the CA derives from the historic pattern of development and the attractive and traditional architectural detailing. Although there are large contemporary buildings located on Broad Street, their scale and function reflect the strong historical commercial and civic presence in this part of the CA.
16. The City Centre Conservation Area Appraisal (CAA) 2010 identifies a view along Broad Street in a south westerly direction as being a Negative View. The CAA defines Negative Views as a 'result from insensitive scaling of buildings, highly visible detracting buildings, poor quality frontages, gap sites resulting in rear facades becoming visible that were never intended to become visible, the poor quality of the public realm, inactive frontages, and car parking.'
17. The appeal site forms a large gap between the building to the south west of the site and the building to the north east. This results in the building to the south west, which is also within the CA, being cut off from the rest of the built form of the CA. In addition, the significant width of the site in culmination with the wide pedestrian access to Tesco creates a large inactive frontage along this stretch of Broad Street. Accordingly, the appeal site has a negative effect on the character and appearance of the CA.
18. Notwithstanding the above, unlike other open car parks resulting from demolition found within the CA, the openness of the appeal site does not expose the rear facade of any buildings that were not intended to be viewed. In addition, trees are planted between the car park and the foot way, assisting in screening the car park from view, unlike other cars parks in the CA that are largely open to public views. Although trees are not common features within the CA, where buildings typically have a tight grain of development and directly front the footway, they are present, and indeed prominent, along Broad Street. The Council comments that the trees that help screen the appeal site fall outside the control of the appellant. However, the appellant contends that they were planted as part of the development of Tesco and there is a condition that secures their retention. The Council does not dispute this. Overall, these factors minimise the negative effect the appeal site has on the CA.

19. The use of the appeal site as a car park retains the open character of the site, including the gap within the street frontage. Therefore, in this regard, it does not have any greater impact on, and therefore preserves, the character or appearance of the area than if the site was vacant. The existing car park is of a poor quality in terms of the materials used on its surface. However, I acknowledge the appellant's reluctance to invest too much into the site without any certainty over how long the site would be permitted to be used as a car park. In the event I allow the appeal, I am satisfied that appropriately worded conditions would secure more suitable materials as well as landscaping and drainage, which would improve the current quality of the site.
20. There is no evidence before me of the appeal site being allocated within the development plan for any form of development, nor any evidence indicating any alternative form of development coming forward in the future. Therefore, it is reasonable to conclude that, were I to dismiss the appeal and the car park use to cease, the site would become vacant and likely begin to deteriorate, further diminishing the character and appearance of the CA. Moreover, the use of the appeal site as a car park does not prevent the site from coming forward for alternative development in the future.
21. I therefore conclude that, subject to conditions, the development would not harm the character and appearance of the area and would preserve the character and appearance of the CA. As such, it would comply with Policies SP1, SP3, ASP1, CSP1 and CSP2 of the Newcastle-Under-Lyme and Stoke-on-Trent Core Spatial Strategy 2009, which, amongst other things, seek to ensure development respects the character of the townscape and its historic environment; preserves and enhances the character and appearance of the historic heritage of the City; and, improves accessibility.

Conditions

22. The appellant has submitted details relating to improvements to the surface of the car park, landscaping and drainage. I consider these details are necessary in order to make the development acceptable. However, as the deemed planning application is made in respect of the development as alleged and built, there is no mechanism for incorporating any revised plans into any deemed planning permission granted. It is not possible to impose a 'plans' condition.
23. Notwithstanding the above, I can impose conditions which require a scheme of works to be submitted to the Council for approval and implemented. Such conditions are necessary in the interests of the character and appearance of the area and to ensure the development preserves the character and appearance of the CA.

Conclusion on the ground (a) appeals and the deemed planning application

24. For the reasons given above, having regard to the development plan as a whole, I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeals on grounds (f) and (g) do not therefore need to be considered.

Formal Decision

25. It is directed that the enforcement notice is corrected by:

- Deleting the words '*MATERIAL CHANGE OF USE*' in the header of the notice
 - Deleting the words '*Section 171A(1)(a)*' in the header of the notice and substituting them for '*Section 171A(1)(b)*'.
 - Deleting the words '*without planning permission, change of use to pay and display car park and installation of associated structures including barriers and pay stations*' under section 3 of the notice and substituting them for '*Failure to comply with condition 1 of planning permission ref 67890/FUL granted on 11 July 2022 requiring the cessation of the use of the land as a temporary pay and display car park on or before 13/07/2023 and the land to be left in a suitable condition, full details of which shall be submitted to and approved in writing by the Local Planning Authority. Approved details shall be implemented and retained in full.*'
26. Subject to the corrections, the appeals are allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act for the development already carried out, namely the use of the land as a pay and display car park in breach of condition 1 of planning permission 67890/FUL at Former Cinema Site, Broad Street, Hanley, Stoke-on-Trent ST1 4HG as shown on the plan attached to the notice and subject to the following conditions:
- 1) Unless within 3 months of the date of this decision a scheme of landscaping, including a landscape management plan and boundary treatment, has been submitted to and approved in writing by the local planning authority, and unless the approved scheme has been implemented in full in the first planting and seeding season following its approval, the use shall cease and all equipment and materials brought onto the land in connection with the use shall be removed until such time as a scheme is approved and implemented
- If no scheme in accordance with this condition is approved within 11 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.
- Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained. Any trees or plants which within a period of 5 years die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
- 2) Unless within 3 months of the date of this decision a drainage scheme is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 11 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 3) Unless within 3 months of the date of this decision a resurfacing scheme, including details of the surface materials and the layout of the parking spaces are submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 11 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

A Walker

INSPECTOR