



Appeal Decisions

Inquiry held on 10, 11, 12 February and 19, 20 May 2026

Site visit made on 10 February 2026

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2026

Appeal A: APP/T5150/C/25/3374118

Unit B, Victoria Works, Edgware Road, Cricklewood, London NW2 6LF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mstay Limited against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice was issued on 27 August 2025.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a 5 storey building at unit b in use as serviced apartments, short term lets and commercial activities.
 - The requirements of the notice are: 1. Demolish the five-storey building in use as serviced apartments, short term lets and commercial activities. 2. Remove all items, materials, and debris, from the premises, arising from compliance with step 1.
 - The period for compliance with the requirements is 12 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (d), (f), (g) of the Town and Country Planning Act 1990 (as amended).
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Appeal B: APP/T5150/C/25/3374119

Unit C, Victoria Works, Edgware Road, Cricklewood, London NW2 6LF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mstay Limited against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice was issued on 27 August 2025.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a 3-storey building at Unit C in use as serviced apartments and short term lets.
 - The requirements of the notice are: 1. Demolish the three-storey building in use as serviced apartments and short term lets. 2. Remove all items, materials, and debris, from the premises, arising from compliance with step 1.
 - The period for compliance with the requirements is 12 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (f), (g) of the Town and Country Planning Act 1990 (as amended).
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Appeal C: APP/T5150/C/25/3374120

Infill Building between Units B and C, Victoria Works, Edgware Road, Cricklewood, London NW2 6LF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mstay Limited against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice was issued on 27 August 2025.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of an infill building between Units B and C.
 - The requirements of the notice are: 1. Demolish the infill building between Units B and C. 2. Remove all items, materials, and debris, arising from this demolition, from the premises.
 - The period for compliance with the requirements is 12 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (f), (g) of the Town and Country Planning Act 1990 (as amended).
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Summary of Decisions

Appeals A, B and C

1. The appeals are dismissed and the enforcement notices are upheld subject to corrections.

Application for Costs

2. An application for costs was made by the Council of the London Borough of Brent against MStay Limited. This application will be the subject of a separate Decision.

Preliminary Matters

3. A Case Management Conference was held virtually on 18 December 2025. This was purely procedural, and the merits of the appeals were not discussed.
4. As part of the Statement of Common Ground process, corrections to the allegations were agreed between the parties. I find that injustice to the parties would not arise from making the consequent necessary corrections. That being so, the parties agreed this would then dispense with the ground (b) appeals.
5. On Day 3 of the Inquiry, the appellant requested an adjournment in order to place technical evidence before the Inquiry. This was resisted by the Council, but after consideration, I gave reasons for allowing the adjournment, which were also provided to the parties in writing. A bespoke timetable and date for the resumption of the Inquiry was then agreed.

Appeal A – The ground (d) appeal

6. For the ground (d) appeal to succeed the onus is on the appellant to demonstrate, on the balance of probabilities, that at the time the enforcement notice was issued it was too late to take enforcement action against the matters stated in the notice. The parties agree the notice is a second bite notice, and therefore the latest date for the substantial completion of Building B would thus need to have been 25 March 2021 (the relevant date).
7. The substantive evidence comes from the appellant's witness, the General Manager, who has been involved with the building since the end of 2019, and who gave evidence under oath. The setting-up and use of the building was then described and exhibits of bookings said to relate to the building for numerous months since August 2020 are provided, as well as a housekeeping rota since 2021, amongst other things.
8. Whilst I accept the evidence of the General Manager, including that some bedrooms were in-use without windows, the Courts have held that the commencement of use of a building is in itself not determinative of whether the building operation is substantially complete¹. There is also evidence in the form of reviews from guests in August and September 2022 describing the building as a partly constructed site and with the entrance area not finished, as well as further concerns about construction being undertaken in 2023 and 2024.

¹ Per Fidler v FSS [2004] EWCA Civ 1295

9. There is also very limited first-hand evidence concerning the totality of the operations which the appellant originally contemplated and intended to carry out². Indeed, there is no statutory declaration or attendance at the Inquiry on the part of the appellant company to which I can give significant weight as sufficiently precise and unambiguous evidence.
10. Indeed, the western elevation, which is a substantial one, was largely felt and battened until last year. It was described in evidence as 'sarking felt' by the Council, which was not disputed by the appellant. Whilst it may have provided weatherproofing, it is clearly not a finish or level of completion that one might ordinarily expect on a building, save perhaps a shed. Therefore, as a matter of fact and degree, the building would thus not have been a fully detailed building of a certain character: that character being, substantively, a 5-storey apart-hotel building which is the description of the unauthorised development largely agreed by the parties.
11. Indeed, this is further evidenced by material building operations in respect of the addition of metal cladding in summer 2025 as well as the insertion of additional windows prior to that in summer 2023. As a consequence, I do not accept these were separate building operations, or merely decorative works, undertaken to a substantially complete building. That these were not structural works also does little to assist the appellant in demonstrating substantial completion, on the balance of probabilities, given as I have noted there is the need for a fully detailed building of a certain character.
12. This, along with the guest reviews which demonstrate in 2022 there were complaints about it being a building site and which thus likely impacted on the integrity of the building to carry out the use for which it was designed, casts significant doubt in my mind that the building was substantially complete by the relevant date.
13. As a matter of fact and degree, the appellant has therefore failed to demonstrate on the balance of probabilities that it was too late to take enforcement action against Building B.
14. The appeal on ground (d) therefore fails.

Appeals A, B and C – The ground (a) appeals

Main Issues

15. The main issues are whether:
 - any of the three buildings harmfully undermine the delivery of increased and intensified industrial floor-space targets, having particular regard to the Staples Corner Growth Area Masterplan;
 - any of the three buildings result in unacceptable harm to the character and appearance of the area having particular regard to design, materials and urban greening targets;
 - buildings B and C provide/could provide acceptable conditions in terms of standard of accommodation for occupiers having particular regard to noise

² Per Sage v SSETR & Maidstone BC [2003] UKHL 22

and disturbance and the availability of cycle parking, waste storage and on-street parking;

- the developments are inclusive and accessible; and,
- the buildings have adequate sustainability measures and fire safety standards in place or can be secured.

Reasons

16. The sites are located to the rear of a petrol station on Edgware Road and accessed via a private service road. They comprise three buildings.
17. The deemed planning applications relate to the erection of a 5-storey building, in use as an apart-hotel and commercial activities comprising offices and showroom (Building B); the erection of a 3-storey building, for use as an apart-hotel (Building C); and, the erection of a building, for use as workshops and offices (in-between Building).

Masterplan

18. The site is within the Staples Corner Growth Area, being an identified Strategic Industrial Location (SIL) for the purposes of Policy BE2 of the adopted Brent Local Plan 2019-2041, February 2022 (the BLP). The policy approach here is for intensification and some co-location subject to a comprehensive Masterplan approach.
19. Policy BEGA2a of the BLP states that the Staples Corner SIL will be transformed through, amongst other things, industrial intensification to provide a major boost to business and employment opportunities through increased floorspace. This is intended to deliver a new varied supply of modern industrial premises, studios and managed workspaces for London's strategic needs and local business needs as well as other commercial space and housing. Policy BEGA2 then spatially identifies the SIL and describes the policy objectives in more detail.
20. Policies E4, E5 and E7 of the adopted London Plan, March 2021 (the LP), then amongst other things, seek to ensure a sufficient supply of land and premises in different parts of London to meet future demands for industrial and related functions, require SIL's to be managed proactively through a plan-led process to sustain London's largest concentration of industrial capacity for uses that support the functioning of London's economy, and, encourage the intensification of business uses for general industrial and storage and distribution purposes. These policies are thus broadly consistent with the economic objectives of the National Planning Policy Framework (the Framework).
21. There is also the Staples Corner Growth Area Masterplan and Design Code SPD, November 2024 (the Masterplan). The sites are identified within Sub Area 10 of the Masterplan and as suitable for co-location. Building B is shown as being retained in use as a hotel and then largely surrounded by a new public park and with a new access arrangement. It would also be adjacent to some proposed housing along with some general industrial/storage and distribution nearby.
22. The Council assert that Building B should never have been shown as being retained by the Masterplan. It was an obvious error that only became evident during their current enforcement investigation process. It was however confirmed

on the penultimate day of the Inquiry that no efforts had been formally pursued to rectify the supposed error, even though around 9-months has elapsed since the notices were issued. The basis of the error is also unknown other than it was suggested that Building B had been sought to be retained as it was a new building and so was presumed to have been the subject of a planning permission. However, there is no reason in principle why the Masterplan is compelled to retain what was considered to be a new building or indeed only those that were lawful.

23. It is evident that the Masterplan is a professional and comprehensive document from late 2024 that underwent extensive public consultation. Therefore, I am not persuaded that it should be set-aside when it explicitly shows, by means of a series of illustrative maps, amongst other things, that Building B is to be retained as a hotel. It then follows that for the same reasons I am consequently not persuaded that a sequential test or some form of viability assessment would be required. Furthermore, the Council has accepted the principle of an apart-hotel use within this area of the SIL³.
24. It is common ground that the buildings formerly on the site comprised light manufacturing/industrial units of some 1400 sqm floor-space. The two apart-hotel buildings combine to provide 1674 sqm (Use Class C1) as well as 716 sqm of office space (Use Class E(g)(i)) in Building B. The in-between Building provides 207 sqm of workshop space (Use Class E(g)).
25. It is therefore clear that there would be a loss of industrial floor-space. However, Area 10 of the Masterplan shows that there is intended to be a reduction in industrial floor-space of some 11,000 sqm. Indeed, the adjoining Areas 8 and 9 of the Masterplan would also see substantial reductions, with no industrial floor-space envisaged in Area 8 whatsoever. This evidences that whilst the Masterplan does seek to deliver increased and intensified industrial floor-space within the growth area as a whole, this would not be the case for the south-eastern enclave and thus where the sites are located in Area 10.
26. The Masterplan then shows housing adjacent to Building B as well as nearby general industrial/storage and distribution. On this basis there is little evidence that the retention of Building B, primarily as an apart-hotel, would conflict with existing or future nearby occupiers. That being so, I then have little evidence to persuade me that the smaller Building C and the in-between Building would create unacceptable conflict, particularly also noting their location in relation to Building B. They would therefore not fundamentally undermine the strategic approach of the Masterplan or prejudice the delivery of adjoining sites. Whilst it would have some limited impact on the Public Park, the Council has not specifically raised this in evidence as an area of concern.
27. The three Buildings therefore do not have consequent harmful implications for the delivery of other industrial floor-space, or indeed housing, within the SIL. It therefore does not result in suboptimal provision and use of the sites or deter other industrial floor-space opportunities coming forwards for development in accordance with the vision of the Masterplan.
28. I accept that the retention of Building C and the in-between Building do not illustratively accord with Masterplan. However, I heard from the Council during the Inquiry that the Masterplan is not a sites allocation document. Indeed, it is a vision

³ SoCG dated 12 January 2026

for the area, and the Council's case was not one of dogmatically following the illustrative layout, but rather, as identified by the agreed main issue, the undermining of delivery of increased and intensified industrial floor-space targets, which I have found to not be the case. Whilst the Masterplan is not a Statutory Development Plan document, the agreed main issue for the purposes of this appeal sets it at the forefront of the assessment process. Even if the agreed approach of the parties was wrong, the policies then cited largely defer to the Masterplan, as was accepted in evidence, and I find there is little evidence there would be other residual harmful policy conflict in respect of the SIL.

29. The Masterplan would see the other industrial buildings that are also accessed via the private service road demolished. In the interim, those buildings need to remain available to fulfil a beneficial industrial use. The apart-hotel, whilst not immune from enforcement action, has however operated for several years. There was then little evidence that the operation of the appeal sites had caused disruption to the functioning of wider land in its current usage.
30. I therefore conclude that the three Buildings do not harmfully undermine the delivery of increased and intensified industrial floor-space targets, having particular regard to the Staples Corner Growth Area Masterplan. The absence of this planning harm carries neutral weight.

Character and appearance

31. The sites are within the Masterplan area for which it is recognised comprises older poorer quality buildings. Indeed, the parties accept that the previous buildings on the sites were outdated, unsightly and did not contribute positively to the character and appearance of the area.
32. Whilst the starting point might have been those original buildings, and other surrounding buildings and their setting, the Masterplan sets a direction of travel for the comprehensive redevelopment of the area over the next 11-15+ years. The Masterplan also comprises area-wide design codes.
33. It is possible to disaggregate the design-elements of the buildings and conclude that there is an acceptable use of materials, being brick and metal cladding, and that the height and use of flat roofs are also acceptable. That tick-box approach then however largely fails, as the buildings need to be each assessed as a whole.
34. I am extremely cognisant of the Masterplan seeking transformational change at one of the gateways to the Borough. This is therefore not simply a case of inserting three replacement buildings into an existing setting.
35. The appellant accepts that Building B is prominent and located on higher ground so presents as a taller building than the 5 floors that it is. This is the case even though it is accessed via a private road. Metal panelling has then more recently been added to one elevation. It nevertheless still contains some very poor architectural detailing in respect of basic flush small fenestration combined with large blank areas of brickwork across the building. It therefore largely presents as a somewhat utilitarian, tall and boxy flat roof building. I consequently do not accept that it represents a solid piece of architecture or good urban design in its current form or would make a suitable transition building for when neighbouring developments come forward as part of the Masterplan.

36. Whilst Building C is partially screened, it again suffers from a largely blank frontage. Its design is more akin to a commercial or industrial as opposed to an apart-hotel building, which makes it, even though wider views are currently limited, conspicuous.
37. The in-between Building is then said to be of a quirky design with its dormer profile roof. It however adds to the wide-ranging incoherent architecture styles at the sites and is, in-part, of domestic appearance. This is further at-odds with its location and intended use. It is consequently incongruous even though wider views are currently limited.
38. It should however be borne in mind that the three appeals could result in any combination of the buildings be retained. That being so, if for example Building B was demolished, it would in-turn make the in-between Building and Building C more prominent.
39. The buildings are in any event, at best, of below average design and in particular lacking in execution of design detailing. I am therefore not persuaded that they reflect well designed development in the terms expressed by the Framework⁴ or indeed satisfy the local design policies or code of the Masterplan. The buildings therefore fail to complement or be sympathetic to the locality or present as being of high-quality design. They do very little to enhance the accepted poor initial impression of the Borough from this direction.
40. The parties also agree on the requirement for urban greening. Whilst it is likely feasible in respect of proposed works on the roof, given the buildings are largely constructed to the edge of the private service road or are constrained by necessary hardstanding for vehicular access, there would appear to be little practical scope for ground-level landscaping or meaningful active frontages. This is a significant omission on new development such as this.
41. Furthermore, in the absence of detailed plans, planning conditions would not be appropriate given the significant and unacceptable ambiguity this raises and in light of the current design of the buildings. It is also suggested that a planning application for the retention of the metal panelling on Building B would be submitted in the event this appeal is successful. However, there is no mechanism before me to secure this, and it would not address the harm I have identified.
42. Drawing all of this together, I conclude the three buildings result in unacceptable harm to the character and appearance of the area having particular regard to design and urban greening targets in contravention of Policy DMP1 of the BLP and Policies D3 and G5 of the LP. These policies, amongst other things, require development to be of a type that complements the locality, be of high quality, with architecture that pays attention to detail, contribute to the greening of London as a fundamental element of site and building design and incorporating measures such as high-quality landscaping and green roofs. For the same reasons they contravene the adopted Brent Design Guide SPD 1 November 2018, and the design objectives of the Framework and Masterplan. This is a planning harm to which I attach considerable weight.

⁴ Para. 139

Standard of accommodation

43. During the Inquiry it became apparent that the main outstanding internal noise concern related to the rooms facing the Edgware Road and thus only Building B. The solution is not to physically fix shut the windows but provide mechanical ventilation and comfort cooling so there would not be an imperative for occupiers to open windows.
44. Whilst a specific scheme was not before the Inquiry, I accept that a ventilation and cooling scheme could very likely be produced that would be within the scope of the deemed planning application whilst not undoing works for which consent would have otherwise already been granted. The windows already contain trickle vents, albeit they may require some remedy to ensure they are fully functional, and evidence to the Inquiry was that any external plant/equipment would likely be installed on the roof and would be modest in size. On that basis, I am content on-balance that a suitably worded planning condition would be appropriate.
45. Given Building B has been operational, there is very little evidence that it hinders the operation of current nearby commercial premises, such that their hours of operation would need to be reduced.
46. Whilst there is no footway along the private service road, only a short stretch is required to access the buildings. Whether or not the immediate area is perceived as noisy or would feel safe and relaxed is not a robust planning reason to criticise the standard of accommodation offered to occupiers.
47. In addition, the sites could then make acceptable provision for cycle parking, as well as for the provision of disabled spaces and electric vehicle charging points, and which can be controlled by suitably worded planning conditions.
48. With regards to parking, whilst the use would likely lead to overspill parking in the surrounding area, the Council has indicated that a contribution towards a Controlled Parking Zone (CPZ) would help mitigate this impact. The appellant has provided an undertaking to secure £5000 based upon what it considers the associated costs to be. The Council has taken a broad view of the scheme as a whole and is seeking £25,000. During the Inquiry the appellant offered an increased figure of £12,000 that could have been secured by means of submitting an updated undertaking, and for which I indicated I would have been happy to accept, if it became determinative. With only limited evidence from either party as to what the cost of a CPZ would actually be, I am minded to conclude that the figure of £12,000 would be fair and proportionate and could have otherwise been secured.
49. Finally, turning to refuse, the likelihood of refuse vehicles blocking the private service road during collections is high, however this would not be especially unusual and would not block a public highway with the right to pass and re-pass. Acceptable on-site provision for bin storage could also be secured by suitably worded planning conditions.
50. I conclude that Buildings B and C provide/could provide acceptable conditions in terms of the standard of accommodation for occupiers having particular regard to noise and disturbance and the availability of cycle parking, waste storage and on-street parking and thus accords with Policies BT1, BT2 and DMP1 of the BLP and Policies D13, D14, T2, T5 and T6.4 of the LP. These policies, amongst other

things, collectively seek to secure acceptable standards for occupiers and development provision. The absence of this planning harm attracts neutral weight.

Accessibility

51. The appellant accepts that 10% of the bedrooms should be wheelchair accessible, as required by Policy E10 of the LP. Building B, in particular, then has a stepped access from the private service road and various incoherent internal level changes.
52. The appellant is however agreeable to submitting an Accessibility Management Plan for the buildings as well as to make the requisite percentage of rooms wheelchair accessible and provide access ramps.
53. I am cognisant that Section 149 of the Equality Act 2010 also mandates consideration of these issues. However, whilst finely balanced, I accept that internal alterations could likely be made to the buildings within the scope of the deemed planning applications to bring them into compliance, so there would not be an impediment to easy access for disabled or mobility impaired guests. Such issues could therefore be dealt with and secured by means of suitably worded planning conditions.
54. Given the use of the in-between Building, and that it is only two-stories, I am not persuaded the absence of a lift to be a significant omission and thus harmful in planning terms.
55. A suitably worded planning condition could then restrict occupancy by any guests to no more than 90 days.
56. I conclude that subject to suitably worded planning conditions, the developments could be made to be inclusive and accessible and thus would accord with Policy BE9 of the BLP and Policies E10 and D5 of the LP. These policies, amongst other things, require development to achieve the highest standards of accessible and inclusive design. This absence of this planning harm attracts neutral weight.

Sustainability and fire safety

57. The appellant recognises that it is not possible to demonstrate at design stage any sustainability measures that were undertaken and accepts that the buildings are expected to achieve net-zero carbon standards.
58. The appellant has since submitted an Energy and Sustainability Strategy (the ESS). Policy SI 2 of the LP also requires a minimum on-site reduction of at least a 35% reduction beyond Building Regulations for major developments. Building B constitutes such a development. The Council asserts that the ESS however fails to show the proposals would even meet the Building Regulations baseline, and which was not disputed by the appellant.
59. The approach of the ESS is to use the existing buildings as the baseline and thus a retrofit approach is advocated. Doing so however includes the current substandard construction of the buildings which is then used to derive a benefit as this impacts the baseline.
60. Moreover, the buildings are of comparatively new construction and are unauthorised. The deemed planning applications relate to the erection of buildings

as opposed to a change of use or conversion and would only become lawful upon the grant of a planning permission. Policy SI 2 of the LP does not indicate that in such circumstances a retrofit baseline should be used. Furthermore, the objective of the policy is to achieve a carbon reduction over Building Regulations and that objective would not be achieved if unauthorised buildings were not required to comply or were to benefit from an advantageous baseline. That being so, I also do not see overriding support for such an approach in the adopted Brent SPD's that were brought to my attention or compelling evidence that there have been other equivalent schemes accepted. Moreover, it would incentivise unauthorised development as it likely results in a less onerous requirement. I am therefore not persuaded that a lower standard should be sought in such circumstances even if this is then perceived to result in significant waste for minimal gain.

61. There is then only limited evidence as to how any necessary measures would be delivered for each building. These could also raise other significant planning issues in respect of noise and visual appearance. Tension also arises from separate proposals that might involve air conditioning, but which have not been adequately factored into the ESS.
62. The appellant has also submitted a Fire Engineering Strategy (the FES). This has identified fire safety deficiencies that must be addressed. The London Fire Brigade (the LFB) also issued an Enforcement Notice on 18 May 2026 which identifies a considerable number of areas of concern and with-it steps considered necessary to remedy the contravention.
63. The FES states, amongst other things, that there will need to be the provision of an additional staircase for Building B that discharges direct to the outside. The LFB notice also indicates the same as the distance from some bedrooms to the existing staircase is too far. There would appear to be a need for a staircase for the other buildings as well.
64. There however remains very limited evidence as to how a staircase or staircases might be physically delivered. This could involve an internal staircase, but it appeared during the Inquiry that it was to highly likely involve an external staircase. However, the buildings largely abut each other, no safe access from the narrow-elevated strip to the rear has been brought to my attention and the buildings also largely abut either the petrol station or the remaining original building at the sites. A proposal for what seemed a rather elaborate external staircase arrangement was outlined to me during the Inquiry, however there is not the evidence to underpin its deliverability, and no qualitative design review has been undertaken and for which there is little evidence it would not be necessary.
65. This all culminates to cast considerable doubt in my mind that the alternative works would fall within the scope of the deemed planning application and thus s.177(1) of the Act. I am therefore not persuaded that such works can be properly described as part of the developments as built. They would also very likely raise other significant planning issues. Consequently, any subsequent planning permission would go beyond the whole or part of the matters enforced against⁵.
66. Such planning permissions would also have to be a conditional one, and I am not satisfied on the evidence before me that such conditions have a reasonable prospect of being discharged within the parameters of the planning permission. It

⁵ Ahmed v SCLG & Hackney LBC [2014] EWCA Civ 566

therefore does not fall within the statutory power to grant planning permission for the alternative works, as whilst such a planning condition would not alter the nature of the description of development being permitted, it would alter the nature of what was permitted⁶. Put simply, I am not empowered to grant planning permission for a development which is not the whole or part of the alleged breach.

67. There is also little evidence of an adequate drainage strategy for the buildings.

68. I conclude that the buildings sustainability measures and fire safety standards result in unacceptably harmful conflict with Policies BSUI1 and BSUI4 of the BLP and Policies SI 2, SI 5 and D12 A of the LP. These policies, amongst other things, collectively seek to secure sustainable and safe development. This is a planning harm to which I attach considerable weight.

Other Considerations

69. The use of Building B directly generates 4 jobs, and it is asserted that the closure of the apart-hotel would inevitably affect company profits and the futures of 7 other office staff. All the buildings represent employment generating uses. Whilst significant weight should be placed on the need to support economic growth and productivity, the jobs and economic activity only arise from the unauthorised developments. Even if I accept that all the jobs and businesses across the sites would be lost, I afford such considerations moderate weight.

70. Building B is said to apparently have a good level of occupancy and that it is assumed this would also be the case for Building C. There is however very limited evidence to conclude that the product offered by the appellant meaningfully meets any particular sector of visitor need over and above that recognised by the compliance I have already found with the Masterplan. I therefore afford this neutral weight.

71. The buildings have made use of an underutilised brownfield site that was vacant. However, the Masterplan had already promoted an effective use of the site, and no housing is proposed. The Framework also recognises the need to safeguard and improve the environment and guard against other substantial harms, amongst other things. I therefore afford this limited weight.

72. It is the sites that are well located in terms of transport sustainability, and which is an expectation of planning policy. The existence of the buildings does not improve this situation and therefore I afford this neutral weight.

73. The affordable workspace contributions are subject to a viability clause which is not a recognised exemption to Policy BE2 of the BLP. This means I cannot be certain that such a contribution would ultimately be made and therefore I can only afford this, at best, neutral weight.

74. It is asserted that the site would otherwise become vacant and derelict for many years. However, there is limited evidence to demonstrate this would actually be the case and the Masterplan provides a clear vision for the site and wider area. Hoardings could also be used. It is therefore not preferable to retain the buildings in light of my findings, which include unacceptable harm to the character and appearance of the area. I therefore afford this limited weight.

⁶ Finney v. Welsh Ministers [2019] EWCA Civ 1868

75. It had been suggested that the current buildings and use could be regarded as an interim development until the full redevelopment of the area is delivered over the next 10-15 years. Any planning permission would however be a permanent one and it would not be realistic to have a temporary or other mechanism in place for what are permanent buildings, and which would then be for a considerable period of time. I therefore afford this neutral weight.
76. An air quality assessment has been submitted by the appellant which considers the developments would be air quality neutral. This is an agreed position between the parties and thus for the purposes of Policies SI 1 of the LP and BSUI2 of the BLP. The absence of this planning harm carries neutral weight.
77. It was said by the appellant that Building B was constructed in the mistaken belief that a 2017 outline consent gave the right to construct the building as it was of the same height and build envelope and CIL was paid. It was then accepted that it was reasonable to assume intentional unauthorised development in respect of the other buildings. There was however no first-hand evidence from the appellant on this matter, and I do not find it credible to suggest that the appellant company genuinely believed that an outline consent for a warehouse building gave entitlement to build what amounts to a completely different scheme. Given this, and the two unauthorised buildings that followed, I can only reasonably conclude intentional unauthorised development on the part of the appellant and that they actively sought to harmfully flout planning rules and obligations. That the harms can be reversed by means of compliance with the notices does not materially reduce the weight that should be afforded to this planning harm. It is then not a matter of limited weight, because I have found harms of considerable weight. Accordingly, I afford this considerable weight.

Planning Balance

78. I have found two planning harms arising from the main issues which each attract considerable weight in respect of each building. The absence of other planning harms carries neutral weights. The other considerations then only attract a moderate weight, limited weights and neutral weights. Intentional unauthorised development then further weighs considerably against the retention of the buildings.

Conclusion

79. There are accordingly not material considerations that indicate the ground (a) appeals should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the ground (a) appeals should fail.

Appeals A, B and C – The ground (f) appeals

80. The purpose of the enforcement notices are clearly to remedy the breaches of planning control and do not seek to under-enforce. Therefore, for an appeal on ground (f) to succeed it would be necessary for the appellant to explain why the steps required by the notices exceed what is necessary to remedy the breaches of planning control.
81. The notices go no further than remedying the breaches of planning control. They are therefore not punitive.

82. It is the case that the site may then become vacant, albeit I do not accept it would become harmfully derelict given hoardings could be erected. There would then be a loss of jobs until such time as the site is redeveloped and the demolition of the buildings may not be seen to be in the spirit of sustainability policies. I also accept that the appellant will wish to explore other avenues with the Council. None of this however demonstrates on the balance of probabilities why the requirements of the notices are excessive to remedy the breaches of planning control.
83. To otherwise retain the buildings given the ground (a) appeals have failed would largely defeat the purpose of the enforcement action and undermine the planning system in general. A qualification to retain them for an alternative use to subsequently be agreed by the Council would effectively be an open-ended one and which may result in under-enforcement pursuant to s173(11) of the Act. I have also found unacceptable harm arising to the character and appearance of the area from their retention.
84. The appeals on ground (f) therefore fail.

Appeals A, B and C – The ground (g) appeals

85. It is not contended that the period itself of 12 months to comply with the requirements of the notices is too short. Rather, the appellant considers that 30 months would be required to facilitate discussions with the Council that is hoped would lead to a planning permission and for alternative works to take place at the sites.
86. That would appear to be predicated on retaining some or all of the buildings, for which the Council has stated there is no realistic likelihood of it granting planning permission absent the most compelling justification. The appellant also recognises that it may take years for a scheme to come forward which was both viable and acceptable, as well as for the appeals process.
87. That all being so, there is little evidence to underpin the 30-month period sought. It would thus simply appear to be an estimated period for which there is little greater prospect that matters would be resolved. The period of 12 months does however still enable the appellant to reflect on my decisions and take forward discussions with the Council, albeit this is a matter between the parties. There is also little evidence that occupiers of the sites need a longer period to find an alternative location.
88. The appeals on ground (g) therefore fail.

Appeals A, B and C – Overall Conclusion

89. For the reasons given above I conclude that the appeals should not succeed. I shall therefore uphold the enforcement notices subject to corrections.

Formal Decisions

Appeal A

90. It is directed that the enforcement notice be corrected by:
- substituting the words: *'Without planning permission, the erection of a 5 storey building in use as an apart-hotel, and commercial activities comprising offices and showroom (the unauthorised development).'* for the

words following '*THE ALLEGED BREACH OF PLANNING CONTROL*' in Schedule 2 of the notice

- substituting the words: '*Demolish the unauthorised development*' for the words in STEP1 of Schedule 4 of the notice

91. Subject to these 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.

Appeal B

92. It is directed that the enforcement notice be corrected by:

- substituting the words: '*Without planning permission, the erection of a 3 storey building for use as an apart-hotel (the unauthorised development).*' for the words following '*THE ALLEGED BREACH OF PLANNING CONTROL*' in Schedule 2 of the notice
- substituting the words: '*Demolish the unauthorised development*' for the words in STEP1 of Schedule 4 of the notice

93. Subject to these 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.

Appeal C

94. It is directed that the enforcement notice be corrected by:

- substituting the words: '*Without planning permission, the erection of a building between Units B and C (the unauthorised development).*' for the words following '*THE ALLEGED BREACH OF PLANNING CONTROL*' in Schedule 2 of the notice
- substituting the words: '*Demolish the unauthorised development*' for the words in STEP1 of Schedule 4 of the notice

95. Subject to these 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.

Paul T Hocking

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Ed Grant, Counsel for the Appellant

He called: Ms Mariana Rusu, General Manager, Victoria Studios

Ms Jan Donovan, Director, Rolfe Judd Planning

Mr Paul O'Hare, Fire Consultant

Mr Nick Hawkins, Noise Consultant

Ms Jess James, Sustainability Consultant

Ms Christine Hereward, Solicitor

FOR THE LOCAL PLANNING AUTHORITY:

Mr Ashley Bowes, Counsel for the Council

He called: Mr Nigel Wicks, Director, Enforcement Services

Mr Peter van der Zwan, Brent Principal Urban Design Officer

Ms Hilary Seaton, Brent Principal Planning Policy Officer

Mr Nikhil Doshi, Energy Consultant

Mr Reuben Peckham, Noise Consultant

DOCUMENTS:

1. List of appearances for the Appellant
2. Opening Statement on behalf of the Appellant
3. Opening Statement for the Council
4. Tables from Booking.com
5. MR4 enlarged tables
6. Addendum SoCG and drawings
7. Final documents bundle prepared by the Council
8. Further addendum SoCG
9. Letter from Alan Baxter Partnership
10. Copy of LFB Enforcement Notice
11. Three certified executed Unilateral Undertakings
12. List of suggested conditions
13. Closing Submissions for the Council
14. Closing Submissions for the Appellant
15. Costs Application from the Council
16. Response to Costs Application from the Appellant