



Appeal Decisions

Site visit made on 10 August 2026

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

an Inspector appointed by the Secretary of State

Decision date: 21 August 2026

Appeal A: Ref APP/T5150/C/24/3346972

The Lodge Restaurant, The Lodge, Kingsbury Road, London NW9 9HA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Hamid Farooqi against an enforcement notice issued by the Council of the London Borough of Brent on 20 May 2024.
- 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 restaurant/shisha lounge/late night entertainment venue.
- The requirements of the notice are to:
STEP1 Cease the use of the premises as a shisha lounge.
STEP2 Cease the use of the premises for late night entertainment.
STEP3 Remove all items associated with the unauthorised change of use, including the removal of all shisha pipes, tobacco, sofas, tables, charcoal burners, and any other items associated with the shisha lounge and late night entertainment venue, including the removal of refuse and other paraphernalia, from the premises.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) (f) (g) of the Town and Country Planning Act 1990 as amended (the Act). Since the appeal on ground (a) has been made, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.

Appeal B: Ref APP/T5150/W/24/3355074

The Lodge, Kingsbury Road, London NW9 9HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Farooqi against the decision of the Council of the London Borough of Brent.
- The application Ref 24/1994, dated 6 September 2024, was refused by notice dated 11 October 2024.
- The development is installation of flat roof canopy on front side and rear of the building.

Decisions

1. It is directed that the enforcement notice be corrected and varied by:
 - Replacing "shisha lounge" with "restaurant/shisha lounge/late night entertainment venue" in STEP 1 of Schedule 4;
 - Deleting STEP 2 in its entirety from Schedule 4;
 - Renumbering STEP 3 in Schedule 4 as STEP 2 and removing "sofas, tables," and "and any other items associated with the shisha lounge and late night entertainment venue, including the removal of refuse and other paraphernalia,".

Subject to these amendments, in part due to success on ground (f), Appeal A is otherwise 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.

2. Appeal B is dismissed.

Procedural Matters

3. The new National Planning Policy Framework (the Framework) was published on 17 August 2026. The parties have confirmed that they are content with arguments made in connection with the previous Framework to be straightforwardly applied to corresponding parts of the new Framework.
4. I note that an interested third party has made requests, in his representations on both appeals, for orders to be made for costs in favour of the Council, himself and others opposed to the appeal developments. No reason is given for the request in Appeal A, although it is said as regards the request in Appeal B that it is made on the ground that the appeal is frivolous and vexatious. However, National Planning Practice Guidance¹ is clear that awards of costs are not envisaged in respect of interested parties when cases are dealt with by written representations (as is the case in these appeals). Even had the appeals been dealt with by way of an inquiry or hearing, the Guidance is equally clear that costs awards to third parties are to be made only in exceptional circumstances and *not* in the case where any unreasonable behaviour by an appellant relates to the merits of the appeal. Further, the Council has not itself made any application for costs. Accordingly, I am proceeding on the basis that there are no costs matters to determine.
5. I am using my powers to correct the requirements of the enforcement notice (STEPS 1 and 2) so that they properly require the unauthorised change of use to cease, rather than selected components of the mixed use. This is necessary for legal reasons, and for clarity, with no injustice being caused to the parties (the amended steps simply require the breach of planning control, accepted by the appellant, to cease – it does not take away the lawful right to revert to the preceding lawful use).

Appeal A Ground (a) and the deemed planning application; Appeal B

Main Issues (Appeals A and B)

6. I have derived the main planning issues in the appeals from the Council's stated reasons for issuing the enforcement notice (Schedule 3) in Appeal A, and from the decision notice in Appeal B. They are the effects of the developments upon:
 - the living conditions of local residents, particularly as regards noise and disturbance;
 - air pollution and health (from which I interpret from the appeal submissions to constitute any effects due to the use of shisha pipes, tobacco and associated charcoal burners); and
 - highway safety, particularly as regards increased on-street parking.

¹ PPG ID: 16-056-20140306

7. While I note that the wording of the reasons in the enforcement and decision notices says that the developments are 'out of keeping with the area', it is explicitly said to be the case because of the above main issues (other than highway safety). It is not therefore necessary to address it separately as a main issue.

Reasons - Appeal A

Noise and disturbance

8. The appeal premises ('the Lodge') comprise a former gardener's cottage and lodge at an entrance to Roe Green Park. It has lawful use as a café.
9. The appellant makes a deemed planning application (DPA) for the currently unauthorised mixed use, including a late night entertainment component, on the basis of the following proposed opening hours:

Sunday to Thursday: 08:00hrs until midnight;
Friday and Saturdays: 08:00hrs until 02:00hrs.

10. The proposed closing times are notably the same to which the premises has been unlawfully operating (according to the appellant's statement). Therefore, in assessing the noise impacts of the proposal (and there being very limited noise impact assessment, if any, carried out by the appellant), I place significant weight on the evidence of noise impacts that have arisen through the unauthorised use of the premises to those hours. Moreover, I have seen nothing in the appeal submissions to indicate that any mitigation is proposed which might limit or attenuate noise break out to receptor locations which might differentiate the scale any future noise impacts (were the appeal to succeed) from those occurring while the premises were unlawfully operated.
11. PC McInnes of the Police Licensing Department, who has made a representation into the appeal, reports that the premises "*has been the subject of multiple complaints from local residents in the past regarding constant noise nuisance*". Indeed, evidence of such noise complaints (also submitted by the Council with this appeal) was presented at a premises licence review hearing on 8 May 2024. The result was that the premises licence was suspended for 3 months by the Council's Alcohol and Entertainment Licensing Sub-Committee, for failing to promote licensing objectives including the prevention of public nuisance.
12. I have also received appeal representations from the Roe Green Village Residents Association ("*A number of our residents have been adversely affected by loud noise after 11pm from the Lodge over a period of time*") as well as from individual local residents, living across Roe Green Park from the appeal premises. In those representations, the residents refer to disturbance from "*excessive noise nuisance*" (Resident 1) and "*excessively loud music until the early hours of the morning*" (Resident 2, waking them up "*in the middle of the night*" when they had their windows closed – despite being located, it is said, some 500m away – and causing them to report it to the Council). Resident 3 reports that "*Despite living 1/4 of a mile away, we were regularly disturbed by the incessant loud noise from venue often as late as 2am! Must have been awful for those living closer*".

13. I also note with concern that it appears that that noise complaints to the Council, in addition to officer observations made in the street, caused the authority to issue a Noise Abatement Notice regards the operation of the appeal premises (with was subsequently breached, with that breach proven at court through a successful prosecution).

14. I read further from the Council's material that:

"The Nuisance Control Team started to receive noise complaints from local residents in June 2023 regarding loud amplified music and vocals from the premises. We have carried out several visits to the premises and it was clear from the beginning that the premises is unsuitable for its use as a music venue. The fabric of the building in its nature offers very little in the way of sound insulation. As such, break out noise from loud amplified music, amplified vocals and noise from patrons within have been perceived at statutory nuisance levels within the homes of nearby residents. Complaints have been received from residents at six different households at varying locations in the area with the most severely affected being directly opposite the premises. Noise is also produced by patrons outside the premises at noise sensitive hours."

15. Despite this context of serious (and highly evidenced) noise nuisance and disturbance arising from the appeal use, the appellant does not seem to accept there is a problem. His assessment of noise impact seems to be limited to assertions that the use and hours 'do not cause unreasonable harm to the living conditions of neighbours' based on the 'relatively isolated location' and a 'noticeable level of background noise within the area' due to Kingsbury Road and the town centre. However, no technical or specialist evidence has been provided in support of those assertions - which clearly fly in the face of all of the above evidence that the use (targeted by the notice and proposed in the DPA) **does** cause considerable harm to residents' living conditions, and that there is not sufficient isolation of the premises from their homes taking into account the nature of that use and the fabric of the building.

16. For the above reasons, the development is in conflict with Policies D14 of the London Plan (LONP) and DMP1 of the Brent Local Plan 2019-2041 (BLP) which together seek to ensure that significant adverse noise impacts on health and quality of life are avoided and not unacceptably increased.

Shisha

17. I don't think it is in dispute that exposure to shisha smoke can have adverse health effects. The difference is that the appellant states that shisha smoking is no different from smoking cigarettes or cigars, whereas the Council points to evidence from the National Health Service (NHS) and the World Health Organisation (WHO) which it says shows that shisha smoking, even outdoors, causes greater health risks due to prolonged exposure. I prefer the Council's position given the authorities on which it seems to be based.

18. I do not accept the appellant's claim that, were it not taking place at the appeal premises, shisha smoking would otherwise occur in people's homes or in other enclosed places where children may be present. I have seen no evidence of that, and the point is rather contradicted by the thrust of the appellant's global argument that shisha smoking is a social activity for which a 'community facility' is necessary. It also does not mean that the harm from a mixed use

including a shisha lounge component should not be properly assessed. Indeed, Policy GG3 of the LONP requires that, to improve Londoners' health and reduce health inequalities, those involved in planning and development must (amongst other things) assess the potential impacts of development proposals on the mental and physical health and wellbeing of communities in order to mitigate any potential negative impacts.

19. Local studies in Brent have found that shisha cafés are impacting negatively on the health of Brent residents, particularly young people. Accordingly, to support local health strategies, Policy BE5 of the BLP sets a limit on the proximity of shisha uses to secondary schools and further education establishments. Permission will only be granted for sites more than 400m walking distance of a school with a secondary school element or further education establishment entrance/ exit point.
20. The appellant says that the nearest school with a secondary school element is Kingsbury High School. He has submitted a Google aerial image with a route marked which purports to show that is 450m walking distance from the Lodge to the school entrance/exit. However, the line upon which the 450m figure is predicated clearly extends some way into the school site beyond its entrance/exit(s) nearest the Lodge. It appears therefore in fact, and in the absence of a more reliable measurement from the appellant, that the relevant distance for the application of Policy BE5 is likely to be less than 400m.
21. The appellant has suggested a condition be applied to any permission restricting the shisha activities until after closure of relevant educational establishments within 400m of the site². However, that would not make the development compliant with Policy BE5 nor in my view make the development acceptable. Given the proximity of the Lodge to Kingsbury High School and its location on a route which is likely to be taken by many young people on journeys between school and home (including by way of the tube station), the presence and availability of the shisha for custom later in the day would have been noted – even if it were not available to them immediately following school closure. It seems to me that the objective of the policy is to prevent such use of shisha cafes by young people.
22. For these reasons, the appeal development is contrary to Policies GG3 of the LONP and BE5 of the BLP. It is also in conflict with the objectives of the Framework in promoting healthy places and communities.

Highway safety

23. The appeal premises does not have provision for any on-site parking. The Council has provided accounts and photographs of vehicles parked upon the pedestrian footway on Kingsbury Road opposite the Lodge, said to be associated with visiting customers. It is clear to me from looking at that evidence that such parking creates an unacceptable impact on highway safety due to (a) potential impact of vehicles with pedestrians, and (b) the danger to pedestrians stepping out into the road to avoid parked or parking vehicles on the footway.

² The suggestion was specifically made in discussion of Regent College London, although it isn't clear that it is a further education establishment covered by Policy BE5 (defined as those which deliver compulsory education for people over 16)

24. The appellant points to a Public Transport Accessibility Level of 3 (generally considered a moderate level of accessibility to public transport) and to bus stops near the site offering a variety of destinations. In addition, he references (lawful) parking options on Kingsbury Road (albeit at restricted times) and in a Pay and Display Car Park said to be 240m from the site entrance.
25. Notwithstanding these factors, it appears to be a fact (the evidence of which has not been directly challenged by the appellant) that use of the premises is causing the above mentioned highway safety issue. It seems self-evident therefore that the parking and public transport opportunities are insufficient for the use carried out at the appeal premises.
26. For these reasons, the appeal development is in conflict with Policies DMP1 and BT2 of the BLP which together seek to ensure that developments are satisfactory in terms of parking and do not harm existing on street parking conditions.

Other Matters – Appeal A

27. The appellant says that shisha smoking is a social activity and that a shisha lounge is a 'community facility' (which, in general terms, the Framework supports). I take that argument into consideration. However, I have seen very limited evidence that the proposal would make a demonstrable contribution towards supporting social interaction in the community.
28. The appeal development also contributes to the night-time economy, and the late hours would be good for commercial viability and place it in a position to compete with other businesses (including Tigerbay Shisha lounge and restaurant at 232-234 Kingsbury Road³). An objective of the Framework is to enable businesses to invest, expand and adapt in a way that reflects the opportunities, challenges and characteristics of different areas, and supports long-term economic growth both locally and nationally. However, I have seen very limited evidence that the proposal supports the economic vision and strategy for the area. Moreover, the challenges and characteristics of the area include restricted parking opportunities, a residential community affected by noise from the late night entertainment and a school close to the shisha lounge provision. Further, Policy HC6 of the LONP, which although supportive of the growth and diversification of the night-time economy in principle (as is Policy BHC4 of the BLP), says that related planning decisions should improve access, inclusion and safety, and make the public realm welcoming for all night-time economy users and workers. Matters of planning harm I have identified mean that the appeal development does not meet those objectives.
29. For these reasons, taking all the benefits of the proposal into account, I give them moderate weight and they are substantially outweighed by the adverse effects of the development.

Ground (a) and DPA Conclusion – Appeal A

30. The appeal development does not accord with the development plan as a whole, and that finding is not outweighed by other considerations. Accordingly, I shall not grant planning permission (there being no conditions which would render the development acceptable). Ground (a) does not succeed.

³ For which the Council granted conditional planning permission in 2014, notwithstanding noise complaints. However, I have considered the individual merits of the appeal development before me.

Reasons - Appeal B

31. The Council's refusal is on the basis that the proposed operational development (which is yet to occur) would facilitate the unauthorised use targeted by the enforcement notice in Appeal A. However, the application is made on the basis of the lawful use of the Lodge as a café and I shall consider it on that basis.

Noise and disturbance

32. The appellant says that the canopies would provide additional sheltered seating and improve the outdoor environment for diners. As a result, the floor area of the premises would be increased by some 154m², allowing the café/restaurant to welcome more customers and improve its financial viability.
33. A greater number of outdoor diners would increase the potential for noise to be transmitted outside of the fabric of the building, and I do not accept (applying common sense and in the absence of any supporting evidence) that canopies with open sides would contain any significant noise extending laterally from within the seating area.
34. Never the less, the character of use as a café is materially different from use as a late night entertainment venue and with it one would not ordinarily expect high volumes of music and other potential sources of noise giving rise to significant adverse effects. Given that previous noise complaints most obviously related to very loud late-night noise from the unauthorised use, and that the Council has suggested a reasonable and necessary condition prohibiting occupation of the canopy area (as part of the lawful café use) after 21:00 to which the appellant does object, I do not find that the operational development proposed as conditioned would cause any harm to the living conditions of local residents as regards noise and disturbance.

Shisha

35. As I have seen nothing to suggest that the proposal is associated with the use of shisha, this is a null issue.

Highway safety

36. While the appellant again points to the public transport and parking options raised in Appeal A, I found in that appeal that those options were insufficient in preventing the identified highway safety issue that weighed against the development. It does so again in Appeal B.
37. Although I appreciate that the unauthorised use may have attracted a significant number of people, the proposal in Appeal B has an objective of increasing customer numbers over and above what could previously be accommodated within the lawful use of the premises. There is no on-site parking area, and the appellant has not provided (by way of a parking survey or otherwise) sufficient information as to the availabilities of off-site parking spaces (for predicted levels of customers arriving by vehicle) at the parking locations identified (those on Kingsbury Road being restricted for periods of the day). It could be, for instance, that there are actually fewer spaces available at those locations during certain café/restaurant operating hours than late at night when the unsafe customer parking practices were evidenced. All in all, on the evidence, I am not satisfied that the unacceptable impact on highway safety identified in Appeal A would not occur as regards Appeal B.

38. For these reasons, the proposal is in conflict with Policies DMP1 and BT2 of the BLP which together seek to ensure that developments are satisfactory in terms of parking and do not harm existing on street parking conditions.

Other Matters – Appeal B

39. I acknowledge that the flat roof design of the canopies will allow the existing roof to retain its prominence and consequently reduce any detrimental visual impact to the non-designated heritage asset. This is however a neutral factor of no weight in the appeal, for or against.
40. The development would increase the functionality of the outdoor space, protecting diners from the elements, and would lead to increased revenue and financial stability (as well as job security for employees). Taking into account the Framework's support for business growth and the aforementioned policies generally supportive of the late-night economy (economic activities after 6pm), I place moderate weight on these benefits. However, they are substantially outweighed by the adverse effects of the development as regards highway safety.

Conclusion – Appeal B

41. The appeal development does not accord with the development plan as a whole, and that finding is not outweighed by other considerations. Accordingly, I shall not grant planning permission (there being no conditions which would render the development acceptable).
42. Appeal B is dismissed.

Appeal A ground (f)

43. To succeed on this ground, I must be satisfied that the requirements of the notice are excessive in achieving its purpose. It is clear to me from the way the notice is drafted that its purpose is to remedy the breach of planning control.
44. STEP 3 of the notice requires that sofas and tables are removed from the premises. However, as they might ordinarily be used in the lawful use of the premises as a café/restaurant, it is excessive to require their removal. Ground (f) succeeds to this extent and I am varying the notice accordingly.
45. STEP 3 also requires the removal of "...any other items associated with the shisha lounge and late night entertainment venue, including the removal of refuse and other paraphernalia". That requirement is vague and unnecessary. The key physical components of the shisha lounge activity – being the pipes, tobacco and charcoal burners – are already (properly) amongst the items required to be removed. It is impossible to know what is meant by the unspecified items and paraphernalia. Indeed, there may be items associated with the late night entertainment which are also associated with the lawful use as a café/restaurant. Ground (f) succeeds to this extent and I am varying the notice accordingly to remove the excessive and uncertain wording. This would cause no injustice to the appellant, as suggested, as the outcome is a reduced but more certain set of requirements for compliance purposes.
46. I will not vary the notice to permit either a shisha lounge use, or a late night entertainment venue use, as invited by the appellant. Both are unacceptable due to planning harm, for the reasons given in my findings on ground (a).

Appeal A ground (g)

47. For success on this ground, I must be satisfied that the 3 month compliance period of the notice falls short of reasonable. The appellant requires 6 months because he says otherwise the business may be forced to close leaving the premises vacant. However, the premises is currently vacant and it seems to me that 3 months is very ample time to comply with any outstanding requirements of the notice.
48. Ground (g) does not succeed.

Andrew Walker

INSPECTOR