



## Appeal Decisions

Site visit made on 3 January 2026

by A U Ghafoor BSc (Hons) MA MRTPI FCMI fCMgr

an Inspector appointed by the Secretary of State

Decision date: 28<sup>th</sup> January 2026

### Appeal Refs A and B: APP/B5480/C/24/3340498 and 25/3364172

#### 139 Hornchurch Road, Hornchurch RM12 4SZ<sup>1</sup>

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the “Act”).
- The appeals are made by Mr Munawar Iqbal on behalf of Kensington Investments (UK) Ltd against an enforcement notice issued by the Council of the London Borough of Havering.
- The enforcement notice in Appeal A was issued on 13 February 2024, and Appeal B was issued on 19 March 2025.
- In Appeal A, the breach of planning control as alleged is the alteration of the front and side elevations by a new shopfront and roller shutter doors plus the extension of the premises to the front.
- In Appeal B, the breach of planning control as alleged is the material change of use of the premises to use for tyre fitting, balancing and repairs (*sui generis*).
- In Appeal A, the requirements of the enforcement notice are to: (1) Demolish the front extension including the shopfront and roller shutter doors on the front and side elevations of the extension, and (2) remove all debris, rubbish or other materials accumulated as a result taking step (1) above.
- In Appeal B, the requirements of the enforcement notice are to: (1) Cease any use for tyre fitting, balancing and repairs (2) Remove from the premises all ramps, hoists, lifts and other equipment facilitating the use; (3) remove all debris, rubbish or other materials accumulated as a result taking step (1) and (2) above.
- The period for compliance with the requirements in both notices is three months.
- Appeal A is proceeding on the grounds set out in section 174(2) (a) and (f) of the Act. Appeal B is proceeding on grounds (f) and (g)<sup>2</sup>.

**Summary of Decisions: Appeal A - the enforcement notice is quashed, and planning permission is granted in the terms set out below in the formal decision. Appeal B succeeds in part, and the enforcement notice is upheld with a variation to the period of compliance as set out in the formal decision below.**

#### Appeal A - ground (a)

1. The main issue is the effect on: (1) character and appearance of the host building and (2) living conditions of the occupiers of no. 141 Hornchurch Road.
2. The appeal site is a retail unit with residential accommodation above. It is in an area characterised by a mix of commercial and residential properties. It is occupied as a tyre fitting and alignment workshop but the notice before me only attacks the operational development.
3. *Character and appearance:* The Council’s bundle includes a 2008 Google Streetview image of no. 139. This seems to show the retail unit had a flat roofed projection extending forward of the main building. It appears the previous shopfront has been replaced by a wide opening to allow vehicular access and facilitate the ground floor’s use as a tyre centre. Be that as it may, I do not share the Council’s view that the alterations to the front

<sup>1</sup> Also known as 139/139A Hornchurch Road.

<sup>2</sup> Ground (a) was pleaded however by letter dated 16 April 2025, The Planning Inspectorate held that ground (a) is barred because the circumstances set out in s174 sub (2A). Therefore, all planning merits arguments in support of granting planning permission for the alleged use are not relevant in Appeal B.

and side elevations and the installation of the roller shutter visually harm the external appearance of the building, which sits in a mixed commercial and residential context.

4. The appeal building sits back from the highway and while the side elevation sits close to the boundary, the projection is limited in scale and blends in with other forward extensions in the street scene. The opening is wide and, in its closed position, the roller-shutter forms a solid barrier, but similar shutters already exist in the immediate vicinity, and an additional one does not significantly unbalance or harm the street scene. Nevertheless, the solid nature of the barrier is concerning but, as the Council say, could be the subject of a suitably worded condition. When seen in the context of the wider street scene, the subject extension and alterations do not form incongruous additions to the host building nor locality.
5. Drawing all the above points together, subject to suitably worded conditions, I conclude that the subject development does not have a visually detrimental effect on the character and appearance of the host building and street scene to warrant refusal on this ground.
6. *Living conditions:* The projection, including the side entrance, is likely to be noticeable from the front elevation to the adjoining property, no. 141, especially at ground floor level due to its forward setting and bulk. However, the development is unlikely to detrimentally affect outlook or result in loss of light given the orientation of the properties. The overall height, depth and scale of the extensions and alterations do not unacceptably cause harm to the living conditions of the occupiers of no. 141.
7. Accordingly, the subject extensions and alterations meet with the main aims of Policies 7 and 26 of the Havering Local Plan (2021), and guidance found in the National Planning Policy Framework (2024) paragraph 135(b)(c)(f) and 139.

#### *Appeal A - conditions*

8. The Council suggest a condition requiring, within one month of approval, the submission for approval a scheme including detailed drawings to scale, dimensions and details of the colour scheme as to a replacement perforated shutter and following the approval of such details the scheme approved under this condition shall be fitted as a replacement shutter within two months of such approval and shall thereafter be permanently retained. At final comments stage, the appellant indicates they would be happy with such a condition. I too agree that any visual impact caused by a colour, type and texture of the roller-shutter could be significantly reduced if the existing shutter is replaced. A pragmatic approach needs me to consider whether a suitably worded condition can be imposed in such circumstances.
9. In situations where the development has already taken place, it is not feasible to impose a condition precedent or to require that outstanding details be agreed prior to the commencement or occupation of the development, regardless of the importance of those details. Therefore, when a condition is imposed that requires the submission and approval of details or a scheme for development which already exists, it is essential that the condition incorporates a sanction or enforcement mechanism. This is necessary to ensure compliance if the required details are not submitted or approved as stipulated.
10. The key feature of the retrospective condition is that the operational development permitted must be removed if the required detail or scheme is not implemented in accordance with the submitted details within the prescribed timescale. Alternatively, it is submitted on time but not approved and an appeal against the Council's refusal to approve the details submitted pursuant to the condition is not made on time or an appeal is

dismissed, or the scheme is submitted and approved but not implemented within the prescribed timescale. I consider a suitably worded condition requiring the submission and implementation of a roller-shutter scheme, being part of the alleged development, which meet the six tests, can be imposed. So, without this condition the development cannot be made acceptable in planning terms.

### **Appeal B - ground (f) and (g)**

11. As I have already said elsewhere, in the absence of a deemed planning application, the merits of retaining the unauthorised use are not before me for my determination.
12. An enforcement notice shall specify the steps to be taken in order to achieve, wholly or partly, any of the following purposes: remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or remedying any injury to amenity which has been caused by the breach. The requirement to cease the use for tyre fitting, balancing and repairs, and remove from the premises all ramps, hoists, lifts and other equipment facilitating the use, suggests the purpose is to remedy the breach, which can only happen by fully complying with the material change in the use of the land notice.
13. I have carefully given thought to the possibility of varying the notice to save the fittings and fixtures, which the appellant suggests is an alternative. Clearly, plant, machinery and tools are linked to, and part and parcel of, the unauthorised use. There is nothing before me to indicate the fixtures were installed in connection with a lawful use of the land.
14. Turning to the period of compliance, the Council wants to be consistent because it has issued enforcement notices relating to similar uses and given 3 months as a period of compliance. Be that as it may, the steps require the cessation of a business and the removal of plant and machinery linked to the unauthorised use. Nonetheless, the harm caused by the latter should not be allowed to continue more than necessary, given the reasons for issuing the change of use notice. That said, I find the work involved in ceasing the use and removing fittings, as well as the need to find alternative premises and comply with the terms of planning permission granted in Appeal A, justifies a slightly longer period of compliance in this specific case.
15. I also attach weight to rights under Article 8 of the European Convention on Human Rights<sup>3</sup>. While there are concerns about the effect of upholding the notice with a 3-month period of compliance, interference must be balanced against the wider public interest in pursuing the legitimate aims stated in Article 8. The reasons for taking enforcement action clearly set out the harm caused by the use and refer to relevant local and national planning policy. There is a need for development management policies to be applied, and this restriction is an appropriate proportional response to that need.
16. In conclusion on ground (f) and (g), I have carefully reviewed and considered the arguments advanced. However, there are no lesser steps or alternatives which would remedy the breach. There are good reasons to justify a 6-month period of compliance. Ground (f) fails but ground (g) succeeds.

### **Appeal A and B – overall conclusions**

17. In Appeal A, I conclude that, subject to the imposition of a suitably worded condition, and contrary to the Council's arguments, in my planning judgment, the operational

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<sup>3</sup> The ECHR protections have been codified into UK law by the Human Rights Act 1998.

development does not have a materially harmful visual effect on the character and appearance of the street scene or on amenity. As the notice will be quashed, there is no need for me to consider ground (f).

18. In Appeal B, for the reasons given above, I conclude that the requirements of the notice are not excessive to remedy the breach of planning control but the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it. To that extent only, appeal (g) succeeds.

### **Appeal A - formal decision**

19. The appeal is 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 alteration of the front and side elevations by a new shopfront and roller shutter doors plus the extension of the premises to the front, subject to the following conditions:

- 1) The extensions and alterations shall be removed and all materials resulting from the removal or demolition shall be removed within 3 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
  - i) Within 3 months of the date of this decision, detailed drawings to scale including details of the colour scheme and a replacement perforated shutter, hereinafter called "the scheme", shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
  - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
  - iv) The approved scheme shall have been implemented and the development completed in accordance with the approved timetable. Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained and retained.

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.

### **Appeal B - formal decision**

20. It is directed that the enforcement notice is varied by the deletion of 3 months and the substitution of 6 months as the period for compliance. Subject to this variation, the enforcement notice is upheld.

*A V Ghafoor*

INSPECTOR