

Case Name: *Ikram v Secretary of State for Housing, Communities, And Local Government*
[2019] EWHC 1869 (Admin) (17 July 2019)

Full case: [Click Here](#)

Commentary: An Inspector's decision to grant planning permission in response to an appeal against an enforcement notice was quashed by the Court.

The claimant was the owner of a house located between, on one side, two houses converted to a place of worship and community centre, and, on the other side, a former builders' yard which had been converted to a mixed residential use and use as a mosque. The two sites were used in conjunction with each other by the International Islamic Link, for community uses and religious events. The change of use of the builders' yard was carried out without planning permission and the interested parties made a retrospective planning application that was refused by the local planning authority, which subsequently issued an enforcement notice alleging a material change of use of the premises to mixed use as residential use and a community centre and place of worship alongside operational development.

The enforcement notice was appealed. The defendant's planning inspector allowed the appeal and granted planning permission for the change of use. The claimant made an application for statutory review of the appeal decision and judicial review of the grant of planning permission. The claim raised five grounds of challenge, only the first of which was successful.

The judge held that the inspector had failed to impose adequate conditions on the use of the mosque that had been created in the former builders' yard. The inspector's decision letter clearly showed that he intended the use of the mosque to be limited to use for twice daily prayers attended by at most 30 people, but then "inexplicably" did not impose these requirements by way of condition.

The inspector also failed to regulate the use of the appeal site outside of the former builders' yard, including the converted houses, the outdoor yard, the mosque's outbuildings, and the driveway, even though there was evidence that these areas were used in ways which disturbed neighbouring residents. The inspector failed to consider these issues and impose conditions which he considered appropriate.

The claimant had filed a section 106 unilateral undertaking in an attempt to secure the relevant restrictions. The judge held that, while in principle such a mechanism may have been acceptable, the unilateral undertaking did not in fact address the issues with the inspector's decision.

Case summary prepared by Ricky Gama