



Appeal Decision

Site visit made on 12 May 2025

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

an Inspector appointed by the Secretary of State

Decision date: 21st May 2025

Appeal Ref: APP/G5750/C/23/3331943

229 Green Street London E7 8LL

- 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 “1990 Act”).
 - The appeal is made by Mr Kishor Pandya against an enforcement notice issued by the Council of the London Borough of Newham.
 - The enforcement notice was issued on 20 September 2023.
 - The breach of planning control as alleged is the erection of an extension.
 - The requirements of the enforcement notice are to 1) demolish the extension (as shown in the approximate location edged in blue on the attached plan and as shown edged in yellow on the photograph attached to the issued notice at Appendix 1) and 2) on completion of step 1, remove all materials and debris from the site.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (d), (a) and (f) of the 1990 Act.
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Decision

1. 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.

Ground (d)

2. For this appeal to succeed, the evidence needs to show that the building operations involved in the erection of the extension were substantially completed on or before the relevant date, which is 20 September 2019. The onus of proof is squarely on the appellant and the standard is the balance of probabilities.
3. Essentially, in support of the claim that the extension is immune due to the passage of time, the appellant has submitted sworn testimony, supporting letters, and a planning statement, which refers to the site’s history and photographic images as well as evidence from Google Street View.

I have considered all the written evidence but for the following reasons, I find the quantum of the evidence presented to be too imprecise and unclear.

4. The design and layout of the forecourt, as described in the written evidence, is inconsistent with the matters alleged in the notice - the erection of an extension. The written testimony, supporting information and street view images appear to indicate the existence of a canopy and a low-level boundary wall that formed a covered forecourt. The canopy extended over the boundary walls, but it seems to me that the space beneath was open: probably used in connection with the primary retail use of the premises.

5. In comparison to the development that existed at the date of the notice's issue, the former canopy and boundary walls are materially different. This is because the forecourt forms an enclosed area. I saw that the space between the former canopy and low-level boundary walls has been infilled by windows and openings, which are used to serve customers from behind a dedicated counter. A door has also been installed, which provides a secure area, and new advertisements have been installed. In addition, part of the ground floor area to no. 229 has also been added to create an extension that is the subject of the notice. The agent acknowledges that the building operations involved in the erection of the extension were done within the last year, which is consistent with the street view images.
6. The quantum of the evidence presented does not clearly and unambiguously show, on the balance of probabilities, that the building operations involved in the erection of the extension were substantially completed on or before the relevant date. It therefore follows that the onus has not been discharged, and ground (d) must fail.

Ground (a)

7. The **main issue** is the effect of the development on the character and appearance of the street scene and locality.
8. No. 229 is a two-storey property located on the corner of Green Street and Marlborough Street. Like other commercial properties in this terrace, there is residential accommodation above. The area is characterised by mix of residential and commercial properties: the latter set back from the highway.
9. In the past, the covered forecourt might have been used in connection with the shop. In comparison, the extension's design and layout are materially different because it forms an enclosed space in this prominent location. Alterations to the canopy and boundary walls may well be contemporary. Nonetheless, I consider that the extension has a visually intrusive effect on the host building's external appearance, due to its projection and siting. When seen from public viewpoints, the bulk, mass and size of the extension has a jarring impact.
10. There may be a realistic fallback if it is held that the former canopy and boundary walls are immune from enforcement action, but that is far from clear and is a matter for the appeal parties to explore. I find that the extension has a harmful effect on the external appearance of the host property and the block. The development is out-of-keeping with the character and appearance of the street scene and locality.
11. Drawing all the above points together, I find that the development conflicts with relevant policies D1, D4, SD6 and SD7 of the London Plan (2021), policies S6, SP1, SP3, SP7, SP8 and H1 of the London Borough of Newham Local Plan (2018), and design guidance in the National Planning Policy Framework (2024).

Ground (f)

12. The appellant states that the steps required by the notice are unreasonable, but no lesser step can achieve the purpose behind the notice, which is to remedy the breach. Nor can an alternative scheme achieve that purpose at less disruption and cost. I have taken account of the evidence related to the previous canopy and boundary wall. However, I have found that planning permission should not be granted for the alleged extension even if that is found to be a reasonable fallback.

13. Significant building work would be required to bring about the canopy and boundary walls. That would, in turn, involve considerable rewriting or variation of the steps required. Given the nature and extent of the building work involved, there is a risk of introducing uncertainty in the requirements.
14. The breach of planning control alleged can only be remedied by the steps set out in the notice, which fall within its scope. The steps required achieve the purpose behind the notice and they are not excessive. Ground (f) fails.

Overall conclusion

15. Having regard to all other matters raised, I conclude that the appeal against the enforcement notice fails on ground (d) and (f), and the deemed planning application is refused planning permission.

A U Ghafoor

INSPECTOR