



Appeal Decision

Site visit made on 12 July 2025

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

an Inspector appointed by the Secretary of State

Decision date: 25 July 2025

Appeal Ref: APP/V5570/C/24/3355130

Land at 45 Hornsey Road London N7 7DD

- 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 Neville Stewart against an enforcement notice issued by the Council of the London Borough of Islington.
- The enforcement notice was issued on 18 September 2024.
- The breach of planning control as alleged is the erection of a ground floor canopy extension with associated means of enclosure to the side of the property.
- The requirements of the enforcement notice are to: 1) remove the ground floor canopy extension with associated means of enclosure and all supporting posts and fixings 2) upon completion of step 1), remove from the land all materials and debris arising from the works, and 3) Reinstate the steel railings/gate to the resulting exposed storage area to provide a secure enclosure.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2) (e), (b), (c), (a) and (f) of the 1990 Act.

Summary decision: The appeal is dismissed, and the enforcement notice is upheld with a minor correction in the terms set out below in the formal decision.

Ground (e)

1. In pursuing an appeal on this ground, the appellant needs to show, on the balance of probability, that copies of the issued notice were not served as required by s172 of the 1990 Act. Sub-section (2)(a)(b) state a copy of a notice shall be served on the owner, occupier and on any other person having an interest in the land. An *owner* is defined in s336(1); a person may be an *occupier* because of a lease, licence or oral permission. An interest in the land connotes a legal or equitable interest. A person entitled to appeal is specifically defined as a relevant occupier. There is a distinction between occupiers with an interest who must be served, and persons with an interest, which entitles them to make an appeal. I am also mindful of s176(5).
2. The statutory requirements of what a notice must specify are set out in s173(1) – (10) of the 1990 Act. The latter states the notice must specify additional matters as prescribed in secondary legislation¹. The precise boundaries of the land to which the notice relates, whether by reference to a plan or otherwise, must be specified. It appears to me that the notice should have referred to land at “43” and not “45 Hornsey Road”. However, the site plan attached to the notice clearly identifies the precise boundaries of the land to which it relates. The evidence presented clearly demonstrates the recipient of the notice was under no illusion as to the affected land given the cross-hatched area.

¹ The Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002.

3. The appellant confirms they occupy the cross-hatched and triangular-shaped area. The latter is part of land owned by Grocola PLC, which the Council also served with a copy of the issued notice at its registered address. Given the timely appeal made by the appellant, I am satisfied that the notice has been properly served in accordance with the statutory requirements set out above and ground (e) fails.
4. For clarity's sake, it is probably better to correct the notice so that it accurately matches the area identified on the site plan. The substitution of the number "45" by "43" does not cause injustice to any party given all those who needed to be served have been properly served. I will therefore correct schedule 1 using powers available to me.

Grounds (b) and (c)

5. Clearly, at the date of issue, the matters alleged in the corrected notice had in fact occurred as confirmed by the appellant who seeks express planning permission for the extension. The latter forms an enclosure and extends the available floorspace for customers to sit and consume food or drink. The nature and scale of the structure indicates to me significant building work was required to erect the canopy: the extension cannot be regarded as a minimal addition given its size and permanence. Clearly, the work has changed the physical appearance of the ground floor. In my assessment, the matters alleged constitute development for which planning permission is required. There is nothing before me to indicate express planning permission has been granted for the ground floor canopy extension with associated means of enclosure to the side of the property at no. 43 Hornsey Road. Ground (b) and (c) both fail.

Ground (a)

6. The terms of the deemed application are directly derived from the allegation. The single **main issue** is the effect of the development upon the character and appearance of the host building and locality.
7. The site is located on the south-west side of Hornsey Road and is part of a building that includes residential accommodation and a ground floor catering unit. The latter is described by the appellant as a café and the covered space extends the facilities offered at the kiosk to customers. The area includes commercial, residential and academic buildings and is located opposite the Emirates stadium.
8. The appellant maintains the café extension is minimal in scale to the host building being part of a building that has multiple storeys. The extension's construction includes an awning attached to the walls of the five-storey building used by the university. The perpendicular solid wall form part of the existing kiosk, and two walls to the extension are of timber construction with plastic windows. I consider that the type of material used on its external elevations give the whole structure an ephemeral quality as it does not correspond with the host building. It has a makeshift appearance which, incidentally, is confirmed by the appellant because they say the extension could be removed in a day.
9. The area covered by the café extension was vacant and was causing some concern as the appellant says it was used as a dumping ground or parking of vehicles. However, the extension is visible at ground floor level, especially in views along the street scene. The design and external appearance of the addition draws

the naked eye as it forms a visually incongruous addition. Given its overall layout, the extension appears out-of-keeping with utilitarian design of retail units in this part of the street scene.

10. Contrary to the appellant's arguments, I find that the development conflicts with policies D4 and E9 of the London Plan (2021), policies Plan 1 and ST2 of the Islington Local Plan - Strategic and Development Management Policies (SDMP) (2023) and the Urban Design Guide (2017).
11. The appellant refers to the specialist nature of the café. It meets the needs of a section of the local community and is a safe space for social interaction. The site does not fall within the local town centre although dispersed café type uses can contribute positively towards the vibrancy and character of places outside locally designated centres. Additionally, the appellant draws attention to other strategic local planning policies in support of providing a specialist facility for sections of the community. In addition, there is some support from interested parties who benefit from the specialist nature of the business.
12. Article 8 of the European Convention on Human Rights (ECHR)² is also a consideration as is the public sector equality duty (PSED). However, there is no evidence before me to indicate that the refusal of planning permission is likely to lead to the closure of this local community facility. In any event, any potential interference with the business must be balanced against the wider public interest in pursuing the legitimate aims stated in Article 8. The inappropriate nature of the canopy extension represents visual harm to the environment.
13. The appellant refers to the potential harm caused to sections of the local community and their protected characteristics if the canopy extension must be removed. I have borne in mind the need to eliminate discrimination; advance equality or opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
14. As an alternative to the development the appellant suggests the canopy could be re-designed and re-constructed to be able to fold back to the supporting wall, and the supporting enclosure walls be erected to be detachable and to be easily removable. However, I am not persuaded such an alternative is part of the matters alleged, and it is unclear as to what would be involved as a fully worked-up alternative scheme has not been submitted for my consideration in terms of merits.
15. The appellant refers to *Ashburton Trading Limited v. Secretary of State for Communities and Local Government, and the London Borough of Islington* [2014] EWCA Civ 738 (Admin). It has limited, if any, relevance to this appeal because that judgment concerned a planning appeal regarding the proposal to build a 25 storey building, or alternatively a 16 storey building, at 45 Hornsey Road.
16. Given the harm caused by the development to character and appearance of the locality, in my planning judgment, the advanced considerations in support of the appeal, whether taken individually or cumulatively, do not, on balance, outweigh the

² The ECHR protections have been codified into UK law by the Human Rights Act 1998.

conflict with the development plan, as a whole. In all the circumstances it is not disproportionate to refuse planning permission.

Ground (f)

17. The challenge is that the steps required exceed what is necessary to remedy the breach. The notice seeks to remedy the breach of planning control by restoring the land to its previous condition including reinstating the railings and gates. The appellant suggests that is inappropriate because the triangular shaped parcel was used for littering or parking purposes. However, the purpose behind the requirements is to remedy the breach, which can only be achieved by full compliance.
18. As an alternative step, the argument is that the notice should simply require the canopy be re-designed and re-constructed to be able to fold back to the supporting wall, and the supporting enclosure walls be erected to be detachable and to be easily removable. The lesser step advanced would not remedy the breach. The requirements cannot be framed to give effect to the alternative step without introducing significant degree of imprecision in the steps. This is because of the extent, nature and scale of work required to bring about the alternative scheme.
19. In my assessment, the steps required by the issued notice are not excessive and are proportionate. Ground (f) fails.

Overall conclusions

20. For the reasons given above and having regard to all other matters raised, I conclude that the notice should be corrected as no injustice is caused to any party. The appeal fails on all grounds and planning permission is refused on the deemed application.

Formal decision

21. It is directed that the enforcement notice be corrected by:
 - (a) deleting the following text and number at schedule 1 (the land or premises affected): "Land at 45 Hornsey Road" and
 - (b) substituted therefor by the following text and number: "Land at 43 Hornsey Road."

For the avoidance of doubt, the land affected now reads the following: Land at 43 Hornsey Road, London, N7 7DD (shown cross hatched black on the attached plan hereinafter referred to as "the Land").
22. Subject to the correction, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.

A U Ghafoor

INSPECTOR