



Appeal Decision

Site visit made on 5 August 2025

by **R Curnow MA(TCP), BSC(Hons), CMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 August 2025

Appeal Ref: APP/A5840/C/24/3342334

Joiners Arms, 35 Denmark Hill, LONDON, SE5 8RS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Thomas Smythe of The Joiners Arms against an enforcement notice issued by the Council of the London Borough of Southwark ('the Notice').
 - The notice was issued on 8 April 2024.
 - The breach of planning control as alleged in the notice is Without planning permission, the construction of a roof terrace structure, comprising of timber decking, timber fencing and timber bench seating, at first floor level located in the approximate location outlined and hatched red of Map 1 attached to this Notice; and the unauthorised construction of a permanent pergola structure located to the rear of the property at ground floor level located in the approximate location outlined and hatched in green on Map 2 attached to this Notice ("the Unauthorised Developments").
 - The requirements of the notice are: 1. Permanently remove all fixtures and fittings associated with the roof terrace structure at first floor level, comprising of timber decking, timber fencing, planters and timber bench seating; 2. Remove the pergola structure located at the rear of the ground floor; 3. Remove all fixtures and fittings associated with the pergola structure; 4. Remove all fixtures and fittings associated with this Unauthorised Developments from the Land; and 6. Restore the Land back to its original condition before the Unauthorised Developments took place.
 - The period for compliance with the requirement is: 3 months.
 - The appeal is proceeding on the ground[s] set out in section 174(2)(f), (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Ground (f)

2. An appeal made under Ground (f) is that the requirements of the Notice exceed what is necessary to remedy any breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused by the breach. Here, it is clear that the purpose of the Notice is to remedy the breach of planning control.
3. The Appellant's case is that, if the Notice were to be upheld, much of the development that has been undertaken could be re-erected without recourse to the Council as it would be permitted development, by reason of Class G of Part 2 of Schedule 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO'). This being the case, it is argued, save for those parts of the work that have been undertaken within 2m of the boundary of a residential property and would not be permitted development, the remaining works should be allowed to be retained.
4. The Class G permitted development rights are defined in the GPDO as "The provision of one moveable structure within the curtilage, and for the purposes, of a building used for a purpose within...(a) (drinking establishments etc) of the Use

Classes Order". Therefore, the rights would only allow one structure and this would have to be movable.

5. The Notice refers to two pieces of operational development that are quite separate from one another, a roof terrace and a pergola. The former is a quite large 'L'-shaped structure that runs along the rear of the building and along one boundary. It is connected to, and supported partly by, a steel frame set into the ground and partly by a flat-roofed portion of the building. It was designed as a permanent structure and is not movable. The pergola consists of a number of timber uprights set into the ground that support a timber framework with, in part, clear plastic panels to provide shelter to the drinking area beneath. It, too, is not movable. Therefore, neither would benefit from the Class G permitted development rights.
6. Notwithstanding that I have found that the works that have been undertaken could not be re-erected using permitted development rights, allowing them to remain in the modified form, as suggested by the Appellant, would be akin to granting planning permission for part of the development. As there has been no appeal made under Ground (a) for planning permission to be granted, I cannot accept any lesser step that would not remedy the breach of planning control, which is the removal of the development in its entirety.
7. For the above reasons, the Ground (f) appeal fails.

Ground (g)

8. An appeal made under Ground (g) is that the period for compliance with the requirements of the Notice fall short of what should reasonably be allowed.
9. I have been given no reason to show that the removal of the pergola and roof terrace could not be undertaken within the 3 months given in the Notice, nor could I see any such reason at my site visit. The reason for the requested 6 months is that it would allow time for the Appellant to negotiate with the Council and then apply for a scheme that it would find appropriate. No evidence has been submitted to substantiate the claim that the pub would close without the development remaining.
10. For the reasons given above, I shall not extend the period for compliance, which I find to be reasonable. I am mindful of the powers that the Council has, under s173A(1)(b) of the Act, to extend any period for compliance. However, those powers are entirely discretionary and are a matter for it alone.
11. For the above reasons, the Ground (g) appeal fails.

Conclusion

12. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

R Curnow

INSPECTOR