



Appeal Decision

Site visit made on 19 August 2025

by **L Douglas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02nd September 2025

Appeal Ref: APP/U5360/C/24/3344430

1 Great Eastern Street, London EC2A 3EJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
 - The appeal is made by Yasmin and Yaqub I M Alsami against an enforcement notice issued by the Council of the London Borough of Hackney.
 - The notice was issued on 15 April 2024.
 - The breach of planning control as alleged in the notice is Without planning permission, the construction of two dormer extensions; the creation of a rear roof terrace; the installation of fire escape stairs and replacement of the timber sash windows to the rear and side front elevation with upvc windows.
 - The requirements of the notice are: 1. Remove the 2 dormers roof extensions from the property; 2. Remove the railings from the flat roof at roof level that facilitates its use as a roof terrace; 3. Remove the fire escape stairs which are mount onto the wall as shown in appendix 1; 4. Remove the upvc windows from the side and rear elevations as shown in appendix 1; 5. Replace with timber sash windows that shall accurately replicate, in terms of material, profile and detailing, the original windows present at the property before the breach of planning control occurred; 6. Make good all damage to the Property resulting from the removal of the unauthorised works as listed above; 7. Upon completion of the above steps, remove all materials, debris, waste and equipment resulting from compliance with the other requirements of the notice from the property and its premises.
 - The period for compliance with the requirements is 7 months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) and (d) of the Act.
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Decision

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

Application for costs

2. An application for costs was made by the Council of the London Borough of Hackney against Yasmin and Yaqub I M Alsami. That application is the subject of a separate decision.

Preliminary Matters

3. The Council has claimed that the appellant's submissions imply an appeal under ground (b) has been made. There is no dispute that two dormers on the Great Eastern Street elevation and a roof terrace and fire escape stairs on the Three Cups Yard elevation exist at roof level. It is also not disputed that upvc framed windows exist at first, second and third floor levels facing into Three Cups Yard, and one upvc framed window exists at third floor level facing onto Shoreditch High Street. The only issues in dispute are whether these are in breach of planning control (ground (c)), and if they are, whether they are exempt from planning control (ground (d)). As such, there is no appeal under ground (b) for me to consider.

4. Various points have been made by the appellant relating to the planning merits of the development. However, as no appeal has been made under ground (a), there is no deemed application for planning permission for me to consider. The planning merits of the development are not relevant to the appeal under grounds (c) and (d), which will focus on the relevant legal considerations.

Ground (c)

5. To succeed under this ground of appeal the appellant needs to show, on the balance of probabilities, that the dormers, roof terrace, fire escape stairs, and/or upvc windows described above do not constitute breaches of planning control.
6. Section 57 of the Act sets out that, subject to the provisions of that section, planning permission is required for the carrying out of any development of land. Section 55 provides the relevant meaning of development, which includes the carrying out of building, engineering, mining or other operations in, on, over or under land, with 'building operations' including operations undertaken by a person carrying on business as a builder.
7. It has not been explained how the installation of the dormers, roof terrace, fire escape stairs, or upvc windows may not have comprised development requiring planning permission. The dormers are significant structures visible from a number of viewpoints, which have comprised substantial works to the roof. There can be no doubt that they have involved development requiring planning permission.
8. The roof terrace comprises an area of flat roof accessible by a door and enclosed by a metal balustrade. The fire escape stairs lead from it. While a flat roof may have previously existed, there is no evidence to show that is likely the case. The laying of the flat surface that comprises the terrace, the installation of a door to access that space, and the fixing of a metal balustrade to facilitate its use as a terrace, along with the fire escape stairs, all comprise works which can be reasonably described as building operations. I reach this view despite the flat roof and door only being visible to limited extents from neighbouring properties, and not from street level.
9. Much the same as the other works described above, the installation of the upvc windows at first to third floor levels would have required trained people with specialist skills and tools. These were not insignificant works either. I have not been provided with details of all the former windows, but the evidence shows that timber framed windows of substantially different appearances previously existed in place of two of the windows. While the upvc windows on the Three Cups Yard elevation are not as prominent as that on the Shoreditch High Street elevation, all these windows remain visible from a number of public and private viewpoints. On the limited evidence I am therefore also satisfied that the installation of the upvc windows comprised development requiring planning permission.
10. I have been referred to a planning permission¹ issued in 1994, for development described as 'Installation of new shopfront incorporating three separate entrances, and alterations to the existing roof and use of the first, second, third, and loft (fourth) floors as two business units'. Nothing in the information before me, including the approved plans, shows that this planning permission authorised any of the above development.

¹ The Council's ref: 11/22688 dated 31 March 1994

11. Reference has also been made to the planning permissions granted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for roof extensions/alterations. However, I am not aware of any planning permission granted by the GPDO for the works undertaken in this case, where the top floors of the building are said to be in use as residential flats.
12. I have found that the installation of the dormers, roof terrace, fire escape stairs, and upvc windows all comprised development requiring planning permission. It has not been shown, on the balance of probabilities, that any of this development benefits from planning permission. It is therefore in breach of planning control.
13. The appeal under ground (c) must therefore fail.

Ground (d)

14. To succeed under this ground of appeal the appellant needs to show that, at the date when the notice was issued, no enforcement action could be taken in respect of the above breaches of planning control. The appropriate test of the evidence is the balance of probabilities. Case law sets out that the appellant's evidence should not be rejected simply because it is not corroborated, and that if there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.
15. On the date the notice was issued, section 171B(1) of the Act provided that where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed. Therefore, if any of the above development was substantially completed on or before 15 April 2020, it would have been exempt from planning control on the date the notice was issued.
16. No precise dates have been provided as to when any of the above development was commenced or substantially completed, although the appellant appears to suggest that works on the dormers commenced in 2021. The Council's aerial photographs dated 2021 and 2022 do not show any dormers at those times, less than four years before the notice was issued.
17. It is claimed that upvc windows were installed prior to 2006, but it is unclear which windows the appellant is specifically referring to. In any case, no evidence has been provided to support this claim. The Council's evidence shows no upvc windows were present on the Shoreditch High Street elevation of the building in October 2020, while a timber framed window was in place at first floor level on the Three Cups Yard elevation in June 2022. There is no detailed evidence either way as to when the upvc windows at second and third floor levels on the Three Cups Yard elevation were installed.
18. I am entirely unconvinced that an undated, but recent aerial photograph provided by the appellant shows that the flat roof comprising the terrace forms part of the original building and therefore dates from 1890. Claims that railings forming part of the terrace have been in place for 'a considerable number of years' are also not substantiated, and conflict with the Google Street View image dated June 2022 provided by the Council. The Council's aerial photographs dated 2021 and 2022 (less than four years before the notice was issued) show what may be a flat roof in

the area of the terrace, but it is unclear whether there is any access or railings to that space, as they also show no dormers to the roof.

19. In summary, the appellant's evidence lacks significant detail and it is not sufficiently precise and unambiguous to show that any elements of the development were substantially complete at least four years before the notice was issued. As such, it has not been shown, on the balance of probabilities, that any of the development is exempt from planning control under the provisions of section 171B of the Act.
20. The appeal under ground (d) must therefore fail.

Conclusion

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

L Douglas

INSPECTOR