



Appeal Decision

by **Grahame J Kean BA (Hons), Solicitor (HRA), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 September 2025

Appeal Ref: APP/K5600/C/25/3360320

Victory House, 37 Victoria Road, LONDON, W8 5RF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Paul Hickman against an enforcement notice issued by Royal Borough of Kensington and Chelsea.
 - The notice was issued on 17 December 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the installation of entrance gates at the front elevation of the property.
 - The requirements of the notice are:
 - i) Remove from the land the entrance gates as shown as proposed on drawings: 22-398L(20)-550 P1, 22-398-L(20)-302 P2, 11595 Rev D, 11596 Rev D, 11597 Rev D, 11598 Rev D submitted under planning application reference PP/24/06973;
 - ii) Remove from the land, to an authorised place of disposal, all waste and materials resultant from carrying out the requirements.
 - The period for compliance with the requirements is three calendar months after this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(f), and (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 on ground (f) is that the requirements of the notice are excessive and lesser steps would overcome the objections. It is essential to understand the purpose of the notice. Under s173(4) of the Act, its purpose is to: (a) remedy the breach of planning control that has occurred, or (b) to remedy any injury to amenity which has been caused by the breach.
3. Reading the enforcement notice as a whole it appears that whilst the reasons for issuing the notice include general planning and amenity considerations, its purpose is to remedy the breach of planning control by requiring the removal of the unauthorised gates. In other words, the notice requires nothing less than a full remedy of the alleged breach.
4. Much evidence has been submitted in support of this appeal on the planning merits of the gates. In the absence of a ground (a) appeal, I am unable to consider the general planning considerations advanced by the appellant. It may be that a development can be made more acceptable by steps short of total demolition but that is generally the province of ground (a), which needs to be read with s177. In an enforcement appeal permission may be granted in respect of matters alleged in the notice in relation to the whole or any part of those matters, see s177(1)(a). However, ground (a) is not pleaded.

5. Also, it is well established that in the absence of an appeal on ground (a) an appeal cannot be entertained where the planning objections which the lesser steps purport to address, are not limited to any injury to amenity. An appeal on the ground of exceeding what is necessary to remedy injury to amenity is available, in the absence of a deemed planning application, only if the steps required by the notice are solely for the purpose of removing or alleviating injury to amenity which has been caused by the development.

6. The appellant states that “*the mechanism and framework for the in-situ gate could be retained, whilst allowing for aesthetic alterations e.g. to the materiality of the gates, to address the first reason for refusal under application ref: PP/24/06973 and therefore make the gates acceptable in design and heritage terms.*”

7. So they might. However, the appellant has not put forward an alternative scheme and has not appealed on the basis of the planning merits of the unauthorised development or of an alternative that falls within s177(1)(a). His agent is not making the exact nature of an alternative scheme obvious. If there is an obvious alternative that would overcome the planning difficulties, at less cost and disruption than total cessation I must consider it; however, it is equally well established that it is not my duty to search around for solutions, particularly where, as in this case, the appellant is represented by someone skilled in the field of planning. The appellant is professionally advised. His advisers have chosen not to make precise their alternative scheme under ground (f).

8. The unauthorised in-situ entrance gates were installed between September and October 2023. The appellant draws attention to the planning permission granted in 2013, Ref PP/13/03995 which specified new entrance gates. However, he also states through his agent, that the pre-existing gates “*were a pastiche replica of other similar styles found within the conservation area*”. No alternative steps are put forward on this basis, ie that those gates are restored.

9. In any event, since then the appellant attempted to gain permission for the gates now in situ through application Ref PP/24/06973 but this was refused in December 2024. The focus of most of his appeal statement is on the planning merits of the gates which include security and privacy reasons dwelt upon in detail, but not relevant here.

10. The appellant may of course seek planning permission at any time for a set of replacement gates, or once the notice is complied with, he may provide replacement gates that benefit, if they would benefit, from permitted development rights set out in the Town and Country Planning (General Permitted Development) Order 1995 (as amended), in particular Class A, Part 2, Schedule 2. However, the appellant states that a 1m high gate would be unreasonable in the circumstances, so it is unlikely in my view that he would merely seek to reconstruct the gates within permitted development limits, so I have not considered this as an alternative to complete removal.

11. As to the contention that the notice “*must allow for*” the erection of a replacement entrance gate due to the planning history and security concerns, this is a misplaced argument. The appellant himself correctly identifies that an entrance gate is (in principle) lawful within this opening, however it would be for him to carry out any replacement, seeking planning permission if necessary, as noted above.

12. If the appellant, or his agent is suggesting that the notice must direct some form of re-installation, there is no scope for a notice to require improvements, even if the result is that compliance would mean the building or property is left insecure or open to the elements. The use of powers under s176(1)(b) to vary the notice cannot be used to

obtain permission for alternative development in this case in the absence of an appeal on ground (a).

13. It is also argued that the requirement to dispose of waste and materials resulting from removal of the gates, is excessive but no reason is given save a repeated reference to unarticulated “aesthetic alterations” to the gates to make them acceptable in planning terms.

14. Therefore, the requirements are not excessive or unreasonable to remedy the breach of planning control.

Ground (g)

15. The appeal on ground (g) is that the three-month period for complying with the notice is too short and a period of nine months is requested to be substituted. It is strongly asserted that more time is required to comply with the notice, *“given the need to facilitate security improvements on the site...and there is no provision for the appellant to retain an entrance gate on the primary elevation.”*

16. If the appellant wishes to agree an alternative solution with the Council that may of course be possible. However, I have been given no compelling reason why the three-month period should not be adequate within which to comply with the requirements of the notice.

Conclusion

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

Grahame Kean

INSPECTOR