



Appeal Decision

Site visit made on 2 September 2025

by **Andy Harwood CMS MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 September 2025

Appeal Ref: APP/K5600/C/23/3332409

110 Golborne Road, London W10 5PS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
 - The appeal is made by Mrs Aria Kovatzis against an enforcement notice issued by Royal Borough of Kensington and Chelsea.
 - The notice was issued on 22 September 2023.
 - The breach of planning control as alleged in the notice is Without planning permission, erection of third floor roof storage with front and rear roof terraces to accommodate roof garden.
 - The requirements of the notice are to:
 1. Remove the roof storage and terraces at third floor roof level and reinstate the roof to restore the land to its former condition before the unauthorised works were carried out, as shown on drawings GR-004, GR-005 and GR006 submitted with planning application PP/23/03667, attached to this notice at Appendix A), and;
 2. Remove all associated debris from the land.
 - The period for compliance with the requirements is: Three calendar months.
 - The appeal is proceeding on the ground[s] set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice is corrected by:

- Deletion of the breach of planning control in section 3) and its replacement with:

Without planning permission, the erection of a third-floor extension on the area shown as “terrace” on the “pre-existing third-floor” on plan ref GR-004 attached to this notice as appendix A, to provide an additional room and covered terraces along part of the front and the entire width at the rear of the building

and

- Deletion of the requirement at section 5) 1) and its replacement with:

Remove the extension on the area shown as “terrace” on the “pre-existing third-floor” shown on plan ref GR-004 attached to this notice as appendix A, reinstating the roof to its condition before the unauthorised development was carried out to comply with drawings GR-004, GR-005 and GR-006 as attached to this notice (which originate from the planning application PP/23/03667)

Subject to the corrections the appeal is dismissed, 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 as amended.

The Enforcement Notice

2. The breach of planning control stated on the notice is imprecise. I asked for clarification of what the notice was alleging at the site visit although the degree to which I could ask such questions was limited given that it was a site visit and not a hearing. Furthermore, it has been held that an enforcement notice should tell the recipient fairly what they have done wrong and must do to remedy it. I have a duty to consider the form of the notice which is important for clarity but also due to the implications of further legal action in the event of non-compliance.
3. The notice refers to the erection of “roof storage” which confusingly seems to relate to what purpose the area on the third-floor roof is being put to rather than explaining what has been built without planning permission. Storage is not an act of operational development.
4. I have broad powers under the provisions of s176(1) of the Act to correct or vary the notice where I am satisfied that it would not cause injustice to the appellant or to the Council. The plans which accompany the notice show what will be allowed to remain and neither party disputes that. I canvassed the views of the main parties on revised wording and neither has said that this would cause them injustice. I will correct the notice making it more accurate and precise by using the following description:

‘Without planning permission, the erection of a third-floor extension on the area shown as “terrace” on the “pre-existing third-floor” shown on plan ref GR-004 attached to this notice as appendix A, to provide an additional room and covered terraces along part of the front and the entire width at the rear of the building.’

This corrected description does not broaden the scope of what is alleged and so I do not consider that this would cause injustice to the Council or the appellant. I will also correct the requirement at section 5) 1) to match that corrected allegation which would also not cause injustice.

Appeal on ground (a)

5. The Council has drawn my attention to the adoption of their New Local Plan (LP) on 24 July 2024. The Council has provided a table comparing the applicable policies and with those from the previous 2019 Local Plan as referred to on the notice. I sought the appellant’s view on that information. I will deal with the appeal on the basis of the 2024 LP.

Main Issue

6. The main issue is the effect of the development on the character and appearance of the host property and surrounding area.

Reasons

7. The appeal site is a three-storey building within a terrace of similar properties although it is next to a much lower building which adjoins it on the south-west side. The parapet at roof level at the appeal site is above the level of the parapet on the terrace generally. There is also some variation in the detailing of the parapet walls along the terrace. This extends beyond a building with a prominent gable that acts as a central focal point within the overall terrace. However, there is a generally consistent rhythm to the terrace on either side of that focal point, in

terms of windows, other architectural elements and roof features at parapet level, with glimpses of party-walls and chimney stacks being visible from road level.

8. At the rear of the appeal site, there is more variety to the buildings along the more intimate mews lane that adjoins the property. The rear roof-scape is dominated by the elevations of outriggers with flat-roofs and higher butterfly roofs. There is a prevalence of brownish stock brickwork. There are a range of buildings at lower levels some reflecting an original mews style but with additions at first floor level including balconies and some lean-to conservatories, varying the form as well as the types of materials used. The opposite side of the lane has a line of modern buildings which provides further variety and a newer take on mews styling.
9. The unauthorised development as described in the allegation as corrected, is on the third floor covering much of the previous open roof-level and protrudes above the parapet. From the front it can be seen clearly from the street, adjoining the pre-existing structure at that level which covers around half of the roof as seen from the front and which the Council has accepted as being immune from enforcement action. I have not been provided with the evidence that leads them to that conclusion and it is not before me to consider. At the rear, the unauthorised structure extends across the full width of the building, between the wings of the butterfly roof.
10. The structure is made largely out of timber and polycarbonate sheeting including a large area of trellising at the rear. The appellant refers to it as a “temporary” structure originally erected to assist in repairing the flat roof, although it is fixed to the pre-existing building and there is no dispute that its construction has involved operational development. It has been in place for some time in what would seem a position vulnerable to the attrition of the elements.
11. At the front the sloped roof of the structure protrudes above the parapet and adds to the clutter which is in contrast to the general ordered roof-scape along the terrace. The pre-existing addition at that level also has a harmful effect in that regard but the development subject to the enforcement notice adds to that incongruity in a conspicuous place, disrupting the visual harmony of the terrace.
12. At the rear, the high, prominent position and timber of the trellis with roofing material visible above it, is in the context of a varied roofscape. However, the scale and bulk of the trellis and visibility of the roof-sheeting, results in the structure appearing discordant with the general form of the buildings at that height along the terrace. It also detracts from the traditional original roof-form.
13. Overall, in relation to the main issue, the unauthorised development has a harmful effect on the character and appearance of the host property and surrounding area. This does not comply with LP Policies CD1 and CD2 which, amongst other things, require development to be beautiful, respecting local context, meeting highest standards of urban design and architectural quality. In addition the development does not comply with LP Policy CD12 which requires that roof alterations are sympathetic to the form and character of the building or group of buildings and CD15 which seeks to protect and enhance views, vistas, gaps and the skyline that contribute to the character and quality of the area.

Other matters

14. The appellant has requested a temporary planning permission for 12 months if I

consider the development is unacceptable on a permanent basis. That would allow for time to consider an alternative design which would require planning permission. It is not clear that any alternative development would be acceptable and even if it were, there is no evidence that it could incorporate the existing materials thereby saving costs or carbon emissions involved in manufacturing the building materials, as suggested.

15. The Planning Practice Guidance sets out some limited circumstances when approving planning permission on a temporary basis is acceptable. This includes circumstances that don't apply here such as a trial run or the temporary use of vacant land or buildings. The advice in relation to buildings states that a temporary condition relating to permanent buildings is unlikely to pass the test of reasonableness. Notwithstanding the appellant's reference to the development being "temporary", it is not a temporary structure being fixed to the building. I do not consider that the development would be acceptable on a temporary basis.

Conclusion on ground (a)

16. For the above reasons, having had regard to the development plan as a whole and all other material considerations, I conclude that the appeal on ground (a) should fail and consequently, the deemed planning application shall be refused.

The Appeal on ground (f)

17. The appeal on this ground is that the steps required exceed what is necessary to achieve the purpose of the notice. The purpose of the notice is to remedy the breach of planning control, as set-out in s173(4)(a) of the Act.
18. I have considered the impacts of the development under the appeal on ground (a) above. I do not agree with the appellant that they are "minimal" impacts and as I have stated, they do not comply with the development plan as a whole. Even though the appellant may be considering an alternative design, I have no evidence that an alternative scheme short of full compliance will be acceptable and no other obvious alternative scheme is before me for consideration that could achieve the purpose of remedying the breach of planning control.
19. The appeal on ground (f) therefore fails.

The Appeal on ground (g)

20. The appeal on this ground is that any period specified in the notice falls short of what should reasonably be allowed. The notice currently allows for 3 months for compliance and the appellant has requested 12 months.
21. Whilst the structure is not "temporary" it has a simple basic construction. I do not have expert evidence to indicate that its removal would be particularly difficult to organise. It has been used in effect as part of the appellant's living accommodation and there will be some disruption as a result of removing it. Whilst the appellant refers to the time required to employ a contractor, there is no evidence that the simple structure would take long to remove or that there is any particular shortage of people to carry out this work. I am not persuaded that it would take more than 3 months to achieve compliance.
22. I also have no evidence that there is a reasonable likelihood that an alternative scheme could be agreed upon whether or not extra time is allowed. I therefore

consider that the 3 months strikes a reasonable and proportionate balance between overcoming the harm caused by the development and the ability of the appellant to organise the carrying out of the work.

23. The appeal under ground (g) therefore fails.

Conclusion

24. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Andy Harwood

INSPECTOR