



Appeal Decision

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2025

Appeal Ref: APP/U5360/C/24/3355675

Fireaway, 489 Kingsland Road, London E8 4AU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr A Sivarajeswaran against an enforcement notice issued by the Council of the London Borough of Hackney.
 - The notice was issued on 11 October 2024.
 - The breach of planning control as alleged in the notice is the material change of use of the property to a hot food takeaway (Sui Generis) and the installation of an extraction flue to the rear of the property.
 - The requirements of the notice are: 1. Cease the use of the property as a hot food takeaway; 2. Remove all fixtures and fittings and equipment facilitating the use of the property as a hot food takeaway; 3. Remove the extraction flue installed on the rear elevation of the property; 4. Make good all damage to the property resulting from removal of the unauthorised works as listed above; and 5. 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 three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) 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.

Preliminary Matters

2. The appeal has been made under ground (c) only. In these circumstances and given that the appeal must be determined on the basis of the situation that prevailed on the date that the notice was issued, visiting the site is unnecessary. The appeal has therefore been determined without undertaking a site visit.

Reasons

3. To succeed under ground (c) the development that is the subject of the enforcement notice must either benefit from planning permission or it is development permitted under the provisions of The Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO). Planning application 2023/0129 for 'change of use from restaurant/café (Class E) to takeaway (sui generis)' was refused by the Council on 12 August 2024. The development that is the subject of the enforcement notice does not therefore benefit from planning permission and no claim is made that it is permitted under the provisions of the GPDO.
4. The Appellant's appeal statement and final comments are written as if they support an appeal against refusal of the aforementioned planning application or an enforcement appeal under ground (a), which has not been made. They set out the merits of allowing the change of use to remain but these merits are not relevant to a ground (c) appeal.

5. The Appellant maintains that the extraction flue was installed when the property was in use as a restaurant/café. The flue, whenever it was installed, is development that is not permitted under the GPDO and is development for which planning permission is required. The development that is the subject of the enforcement notice does not benefit from planning permission and it is not permitted under the provisions of the GPDO. The ground (c) appeal therefore fails.

John Braithwaite

Inspector