



Appeal Decisions

Site visit made on 21 October 2025

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2025

Appeal Ref: APP/A5270/C/23/3334330 & APP/A5270/C/23/3334331

154 Hillary Road, Southall UB2 4GP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Fadel Aljamal and Mrs Faten Amro against an enforcement notice issued by the Council of the London Borough of Ealing.
 - The notice was issued on 8 November 2023.
 - The breach of planning control as alleged in the notice is the erection of a rear canopy extension.
 - The requirements of the notice are:
 1. Remove the rear canopy extension; and
 2. Remove all resultant debris from the site.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 (as amended). Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended has lapsed.
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Decision

1. The appeals are dismissed, and the enforcement notice is upheld.

Preliminary Matters

2. At the time of the site visit the rear canopy extension, the subject of this appeal, had been removed in compliance with the Notice. However, the canopy was in situ when the notice was served, and photographs of the canopy have been submitted with the appeal documents. Therefore, the appeals have been determined on this basis.

The Appeals on Ground (c)

3. This ground of appeal is that the development enforced against did not constitute a breach of planning control. The burden of providing relevant facts in this appeal rests with the appellant, and the test of the evidence is the balance of probability.
4. Under s55(1) of the 1990 Act, 'development' comprises two limbs:
 - 1) The carrying out of building, engineering, mining, or other operations in, on, over or under land (operational development);
 - 2) The making of any material change in the use of any buildings or other land.
5. It is clear that the allegation is referring to 'operational development,' and that the installation of canopy relates to a 'building operation.' Operational development' comprises activities which result in some physical alteration to land which has

some degree of permanence. The term 'building operations' is defined for the purposes of the 1990 Act in s55(1A) as including:

- (a) demolition,
- (b) rebuilding,
- (c) structural alterations of or additions to buildings, and
- (d) other operations normally carried on by a person in business as a builder. The list is not exhaustive.

6. S55(2)(a) of the 1990 Act excludes from the definition of development works for the maintenance, improvement, or other alteration of any building which:
 - (i) affect only the interior; or
 - (ii) do not materially affect the external appearance of the building. (Materially affecting the external appearance means an impact capable of having some effect in planning terms.)
7. With regard to s55(2)(a)(i), the canopy does not affect only the interior of the building. Turning to s55(2)(a)(ii) the canopy, rising well above the boundary fence is highly prominent in views from a number of neighbouring gardens and windows. Due to its construction and permanence, the canopy is not a temporary structure. Furthermore, the canopy amounts to a building operation given that it was clearly intended to be permanently in one place, being physically attached to the rear of the property and the ground, and it resulted in a physical change to the characteristics of the land. As a matter of fact and degree, these works materially affect the external appearance of the building as a whole and therefore are not exempt from the definition of 'development' under s55(2)(a).
8. I have also considered whether the canopy complies with Article 3, Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). However, Article 3, Schedule 2, Part 1, A.1 (f)(i) of the GPDO requires that the canopy should not extend beyond the rear wall of an original terraced dwellinghouse by more than 3 metres. The canopy projected more than 3m from the rear wall of the original dwellinghouse. Therefore, the canopy does not accord to the stipulations of Schedule 2 Part 1 Class A of Town and Country Planning (General Permitted Development) (England) order 2015 (as amended).
9. The appellants state that the materials and the design is in keeping with the area, and that it was installed to improve the wellbeing of the occupants of the dwelling. However, since there is no appeal on ground (a), the application for planning permission deemed to have been made under section 177(5) of the Act as amended has lapsed. Therefore, I cannot consider the planning merits of the development. The appellant should therefore contact the Council separately regarding this.
10. I therefore find that, on the balance of probabilities, the matters stated in the notice amounts to a building operation for the purposes of s55 of the 1990 Act. Planning permission is required for these works. There is none in place, and the works are not permitted development. Therefore, based on all the evidence before me, there

has been a breach of planning control, and the appellants have not discharged the onus to demonstrate otherwise.

Conclusion

11. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice.

R. Sathesan

INSPECTOR