



Appeal Decisions

Site visit made on 27 October 2025

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 4th November 2025

Appeal A Ref: APP/E5900/C/23/3322069

147 Bethnal Green Road, LONDON, E2 7DG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Abdul Rouf against an enforcement notice issued by the Council of the London Borough of Tower Hamlets.
 - The notice was issued on 28 February 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised material change of use of the ground floor of the premises shown in the approximate location outlined in red on the attached plan in Appendix 1, from an estates agent to a hot food takeaway (Sui Generis) use.
 - The requirements of the notice are 1. Cease the ground floor use of the Premises, shown in the approximate location outlined in red on the attached plan in Appendix 1 and in photographs of Appendix 2, as a hot food take-away (Sui Generis) use. 2. Make good any damage arising from compliance with step 1 and remove all debris from the Premises.
 - The periods for compliance with the requirements is: 3 months.
 - The appeal is proceeding on the ground[s] set out in section 174(2)(a), (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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Appeal B Ref: APP/E5900/F/23/3322070

147 Bethnal Green Road, LONDON, E2 7DG

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
 - The appeal is made by Mr Abdul Rouf against a listed building enforcement notice issued by the London Borough of Tower Hamlets.
 - The enforcement notice was issued on 5 April 2023.
 - The contravention of listed building control alleged in the notice is: without listed building consent the installation of a vertical extract flue system on the northern elevation (rear) of the property.
 - The requirements of the notice are: 1) Remove the vertical extract flue from the northern elevation (rear), shown in photograph 2A in Appendix 2. 2) Make good any damage to the property caused by compliance with Step 1 above.
 - The period for compliance with the requirements is 3 months.
 - The appeal is made on the ground set out in section 39(1) (e) and (h) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decisions

Appeal A – The s174 Enforcement Appeal

1. 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.

Appeal B – The Listed Building Enforcement Appeal

2. The appeal is dismissed and the listed building enforcement notice is upheld. Listed building consent is refused for the retention of the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

Preliminary Matters

3. The appellant has also made a ground (f) appeal against the enforcement notice and a similar appeal against the listed building enforcement notice. The Council have responded to those grounds and I shall deal with them below.

Appeal A – The Enforcement Appeal

4. The site is on Bethnal Green Road which is part of the Primary Frontage of the Brick Lane District Centre. Policy D.TC5 is the most relevant as it deals with hot food take aways (HFTAs) in the Borough. It lists the areas where HFTAs are supported and the assumption is there is a presumption against HFTAs in other areas. In District Centres they are supported only in areas of secondary frontage, so there is no policy support for an HFTA in this part of Bethnal Green Road.
5. The appellant bases his argument on the rest of the policy which describes the criteria that an HFTA must meet to obtain support if it is within the designated areas. But this ignores the fact that the appeal site is not within one of those areas to start with. Consequently there is a valid policy objection to the use of the appeal site as a HFTA.
6. The NPPF is clear that where a development conflicts with an up-to-date development plan it should be refused unless material considerations indicate otherwise. The appellant's main argument is that the Thai take-away food is not unhealthy, but the purpose of D.TC5 is not solely on health but also maintaining vitality and viability of shopping areas. In any event, the planning permission would be for a sui generis HFTA use and it is not possible to control the type or healthiness of the food sold. The unit could be used in the future for any form of take-away.
7. The Council also refer to policy D.MW3 that the HFTA should have sufficient space to separate and store dry recyclables, organics and waste for collection. I have no reason to doubt the appellant's assertion that they do have such space within the unit and the collection arrangements are the same as for other cafes and restaurants in the area. Policy D.TR3 requires two cycle spaces outside the unit. I noted there were cycle stands set in the pavement on either side of the unit. Directly in front of the take-away was a parking bay so there is no room for cycle stands as well. I assume the provision of cycle stands within the pavement is not within the control of the shop owners and given the number of stands nearby it seems to me the purpose of the policy is being met.
8. Despite being in conformity with policies D.MW3 and D.TR3 the HFTA is contrary to D.TC5 and no material considerations suggest reaching a different decision. I shall dismiss the appeal and uphold the notice.

The appeals on grounds (f) and (g)

9. I am not sure why the appellant requires more time as three months to cease the use seems perfectly adequate to me. He mentions that more time for demolition is required but the notice does not require any demolition, merely the cessation of the use.
10. The Ground (f) appeal is really a further ground (g) argument that more time is needed to make a planning application to regularise the situation. However, given there is a fundamental planning objection to the location of the HFTA it is difficult to see how a further planning application would help. In any event the ground (a) acts as a planning application so all these matters have been fully aired.

Appeal B – the Listed Building Enforcement Appeal

11. The listed building enforcement notice concerns the flue attached to the rear of the building. No147 is part of a terrace of buildings that are all listed partly for their individual quality and also for their group value. This is important when considering the rear of the terrace. This is visible from Shacklewell Street which runs to the rear. There is another pair of flues attached to a building further to the east but these are partially obscured by trees. The appeal flue stands in a row of otherwise unadorned rear façades and so stands out as a conspicuous and alien addition. It is bright silver and extends to the full height of the terrace and above the eaves. It clearly harms the character of the listed terrace and the character and appearance of the conservation area. In terms of the NPPF that harm is less than substantial but is not offset by any public benefits.
12. I do not agree with the appellant that it is small scale nor that it is made of traditional materials. The appellant suggests that it could be redesigned, but no alternative has been put forward. If the use of the premises as a HFTA was acceptable in planning terms, it could be possible to find a way of either reducing the size or disguising the flue in some way but given my conclusions on the enforcement appeal this is not the case. Therefore listed building consent should not be granted, nor is extra time required as the flue should be removable within 3 months. The appeals on ground (e) and (h) therefore fail.
13. The appellant also appealed on ground (f) but in listed building enforcement notice appeals that ground is that the copies of the notice were not correctly served. In listed building cases there are various grounds that cover the equivalent of ground (f) on a S174 enforcement appeal, but in any event I think the appellant is really arguing that more time is needed to make an application for consent. I have dealt with that issue above.

Simon Hand

INSPECTOR