



Appeal Decision

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 November 2025

Appeal Ref: APP/L5810/C/24/3345947

Land at 2A Oldfield Road, Hampton TW12 2AE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
- The appeal is made by Ms Eniola Aluko against an enforcement notice issued by the Council of the London Borough of Richmond upon Thames on 17 May 2024.
- The breach of planning control as alleged in the notice is failure to comply with conditions imposed on a planning permission ref 21/4397/HOT (the Planning Permission) granted on 16 February 2022.
- The development to which the permission relates is described as: 'New first floor rear terrace with associated obscure-glazed balustrade. Revised door and window openings from first floor extension approved under application ref. 21/1385/FUL'.
- The conditions in question are labelled U0120214 and U0120213 which state that: The proposed 1.7m high balustrades surrounding the roof terrace of the building hereby approved shall at no time be glazed, otherwise than in obscured glass, below a minimum height of 1.7 metres (5'7") above the terrace finish level. The roof terrace shall not be used until the balustrades have been constructed in accordance with the approved drawings and shall remain in situ at all times thereafter; and The development hereby permitted shall be carried out in accordance with the following approved plans and documents, where 2159/EX/000, 2159/EX/001, 2159/EX/002, 2159/EX/003, 2159/EX/004, 2159/EX/005, 2159/EX/006, 2159/EX/007, 2159/EX/008, 2159/EX/009, 2159/P/100, 2159/P/101, 2159/P/102, 2159/P/104, 2159/P/105, 2159/P/106, 2159/P/107, 2159/P/108, 2159/P/109, 2159/P/110; received 22 December 2021.
- The notice alleges that the conditions have not been complied with 'owing to a failure to install and remain in situ at all times, 1.7m high obscurely glazed balustrades, surrounding the roof terrace'.
- The requirements of the notice are: 5.1) Erect 1.7m obscurely glazed balustrades to the north elevation of the terrace, strictly in accordance with the conditions, and drawing reference 2159/P/106, attached and approved under the Planning Permission 21/4397/HOT; and 5.2) Permanently remove from the Land any waste associated with complying with step 5.1 above.
- The period for compliance with the requirements is within two months after the notice was served.
- The appeal is proceeding on the ground set out in section 174(2)(f) of the Act.

Decision

1. It is directed that the enforcement notice is corrected by the deletion of the text 'is served on you' at paragraph 5 of the enforcement notice, titled 'WHAT YOU ARE REQUIRED TO DO', and the substitution of the text 'comes into effect'. Subject to the correction, the appeal is dismissed and the enforcement notice is upheld.

Application for costs

2. An application for costs was made by the Council against the appellant, which is the subject of a separate decision.

Preliminary Matters

3. I have a duty to get the notice in order. The period specified in the notice for its requirements to be complied with has expired, despite it not coming into effect yet. This is because the notice refers to a period of two months after the date it was served on its recipients. The notice is therefore invalid and in need of correction. It is clear that the Council intended the notice to specify a period of two months from

the date the notice comes into effect for its requirements to be complied with. I shall therefore correct the notice accordingly, using my powers under section 176(1) of the Act. This will not cause injustice, as it will extend the period for compliance and does not affect the appeal under ground (f). To clarify, the notice comes into effect on the date of this decision.

4. An appeal was lodged under ground (a), but since no fee was received in respect of that ground of appeal, it has lapsed. I shall therefore proceed to consider the appeal under ground (f) only.

The appeal under ground (f)

5. For the appeal to succeed under this ground, the appellant needs to show that the steps required to be taken exceed what is necessary to remedy the breach of planning control or, as the case may be, to remedy any injury to amenity which has been caused.
6. The notice requires balustrades to be erected to the north elevation of the terrace in accordance with conditions U0120213 and U0120214 of the Planning Permission and any waste associated with that process to be removed. The notice refers to plan reference 2159/P/106 in this regard, which is specified as one of the plans which the development permitted by the Planning Permission shall be carried out in accordance with. That plan clearly shows boundary treatment to the north elevation of the terrace annotated '1.7 m proposed obscure-glazed balustrades above terrace finish level'. Although the plan annotations state those balustrades are to prevent harm to amenity, the purpose of the notice is to remedy the breach of planning control, rather than any injury to amenity which may have been caused.
7. It has been suggested by the appellant that only one of the balustrade panels closest to 2B Oldfield Road should need to be replaced, as this would address any claimed harm, while replacing other balustrades would serve no purpose other than to obscure views of the appellant's own garden. I also note claims that the appellant is overlooked from other properties. Be that as it may, the purpose of the notice is to remedy the breach of planning control by securing compliance with two conditions attached to the Planning Permission. It would be a separate matter for the appellant to seek to vary any of the conditions attached to the Planning Permission. The replacement of one panel would not comply with the conditions or remedy the breach.
8. I am not aware of any lesser steps which may achieve the purpose of the notice with less cost and disruption. The steps required to be taken do not therefore exceed what is necessary to remedy the breach.
9. The appeal under ground (f) therefore fails.

Conclusion

10. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction.

L Douglas

INSPECTOR