



Appeal Decision

Site visit made on 20 October 2025

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date 12 November 2025

Appeal Ref: APP/U5360/C/24/3358064

19 Ickburgh Road, Hackney, London E5 8AF

- The appeal is made under section 174 of the Town and Country Planning Act 1990, as amended (the Act).
- The appeal is made by Mr Ashley Whittaker against an enforcement notice issued by the Council of the London Borough of Hackney.
- The notice was issued on 19 November 2024.
- The breach of planning control as alleged in the notice is without planning permission, installation of glass balustrade atop rear extension and replacement of window at rear first floor level with door.
- The requirements of the notice are to:
 1. Remove glass balustrade and metal uprights and all associated fittings and fixtures;
 2. Remove the door and revert to a wooden frame sash window as the one previously in situ;
 3. Make good all damage to the Property resulting from the removal of the unauthorised works as listed above;
 4. 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: 3 months.
- The appeal was lodged on the grounds set out in section 174(2)(a), (f) and (g) of the Act.

Summary Decision: the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

1. The appellant was unable to provide access to No.19 Ickburgh Road on the day of the scheduled site visit because he is in the Netherlands until early January 2026. It is common ground that ground (a) is barred as planning permission has been refused on appeal for the balustrade¹. Considering also the remaining grounds of appeal pursued, on review, it is not essential for me to enter the site to check measurements or other relevant facts. I am satisfied there is no injustice to any party from an assessment of the written evidence only, including plans and photographs. I have therefore determined the appeal on this basis.

Ground (f)

2. The appellant does not agree with the Council's decision to issue the notice. But whether it was expedient to do so is a matter for the Council and not within my remit. The appellant promoted an alternative scheme to raise the glass balustrade to 1.7m high with obscure glazing and considers this would address overlooking and loss of privacy for the occupants of adjoining residential properties. I accept that the planning enforcement system should be remedial, not punitive.
3. However, these amenity considerations relate to some of the Council's reasons for issuing the notice, not the breach of planning control. Even if this scheme was at less cost and disruption to the appellant, it is clear from the requirements of the

¹ APP/U5360/D/24/3343342

notice that its purpose is to remedy the breach and that the Council does not seek to under enforce. In any event, ground (a) is barred so there is no deemed planning application and in these circumstances ground (f) cannot be used to consider planning merits or as a means to effectively grant planning permission for this other proposed development. Whether or not the appellant can negotiate a suitable alternative scheme with the Council, including to overcome all of the Council's reasons for issuing the notice, is a separate matter for the main parties. Meantime, the appellant suggested no other lesser steps.

4. Considering the above, I am satisfied that the steps required by the notice to be taken are consistent with remedying the breach of planning control, so they are not excessive. Accordingly, ground (f) fails.

Ground (g)

5. There is little to suggest that the glass balustrade and metal uprights are anything other than a typical (of the sort) modular structure. In this case, arranged around the parapet edge of a modest flat roofed rear extension used as a roof terrace. There is therefore no apparent reason why it would need to be 'demolished' – the notice simply requires removal, on the face of it by disassembly into constituent parts. Moreover, replacing the door onto the roof terrace with a normal reinstated wooden sash window would be a routine task. It has not been suggested that this needs more extensive alterations or that a suitable window could not be secured in time. There is also no explanation to sustain why these works of temporary duration would unduly interfere with internal use of the extension below or mean the extension needed to be replaced.
6. These works would be at an exposed, elevated level and require means of access through the property, it being mid-terraced and backing onto other residential properties and gardens. But that is not in itself unusual and there is little to suggest this would be unduly complicated or time consuming for a builder. There is little else to justify why the additional 3 to 6 months sought by the appellant is needed in order to find a builder then execute the works, including removal of arisings, if necessary to storage elsewhere, then make good. Furthermore, there is no itemised schedule of works or similar to substantiate that the cost of these works would be prohibitive or result in financial hardship for the appellant.
7. There is no mechanism before me to require the appellant to submit a new planning application for an alternative balustrade. In any event, the timing of a decision in that regard would be unknown, including the prospect of an appeal. Notwithstanding that the appellant is currently abroad there is no apparent reason why this would prevent arrangements being made meantime, including to execute the works when the appellant returned from the Netherlands. I am also mindful that the Council has discretion under section 173A(1)(b) of the Act to extend the period for compliance.
8. In these circumstances, on the evidence before me, I consider that the 6 months or up to 9 months sought by the appellant to comply with the requirements of the notice would be a disproportionate extension of time. It would unduly perpetuate the harm caused by the breach of planning control, as set out in the reasons for issuing the notice, including to the living conditions of others and adverse effect on a Conservation Area.

9. Consequently, the 3 month period in the notice to take the steps required by it does not fall short of what should be reasonably allowed. Accordingly, ground (g) fails.

Formal Decision

10. The appeal is dismissed and the enforcement notice is upheld.

Robin Buchanan
INSPECTOR