



Appeal Decision

Site visit made on 5 August 2025

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2025

Appeal Ref: APP/A5270/C/22/3311646

Land at 11 Hanger Green, Ealing, London W5 3EL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended.
- The appeal is made by Mr. Behzad Mostafazadeh against an enforcement notice issued by the Council of the London Borough of Ealing.
- The notice was issued on 5 October 2022.
- The breach of planning control as alleged in the notice is *without planning permission the construction of a raised and enclosed rear timber deck*.
- The requirements of the notice are:
 1. *Demolish the raised and enclosed rear timber deck;*
 2. *Remove all resultant debris.*
- The period for compliance with the requirements is: *1 month from the date this notice takes effect.*
- The appeal is proceeding on the ground[s] set out in section 174(2)(a), (b) of the 1990 Act, 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.

Summary of decision: The appeal is dismissed, and the enforcement notice is upheld as set out below in the Formal Decision.

Formal Decision

1. The appeal is dismissed, the enforcement notice (EN) is upheld, and planning permission is refused on the application deemed to have been made under s177(5) of the 1990 Act, as amended.

Appeal on Ground (b)

2. An appeal on this ground is that the matters alleged in the EN, have not occurred. In order to succeed on this ground, the appellant must demonstrate that, on the balance of probability, the matters stated in the EN have not occurred as a matter of fact. The appellant seeks to demonstrate that the alleged building is not considered development under s55 of the 1990 Act, and that the structure is temporary as it is portable.
3. S55 of the 1990 Act, as amended, sets out the meaning of “development”, which includes the carrying out of building engineering, mining or other operations in, on, over or under land. Building operations includes structural alterations of or additions to buildings and other operations normally undertaken by a person carrying on business as a builder.
4. The development as described in the EN includes the erection and construction of a raised and enclosed timber deck at the rear of the premises. The timber deck is enclosed with timber fence posts and panels and includes a door and doorway at the rear with steps down to the car park behind the unit. At the time of my visit the structure also has a timber roof. There are no glazed windows, albeit there are

openings between the walls and the roof to provide ventilation. These are all operations that would normally be undertaken by a person carrying on business as a builder.

5. Caselaw¹ has identified three decisive factors in regard to what is deemed a building. These are (a) size; (b) permanence; and (c) physical attachment, although no one factor is decisive. Ultimately it is a matter of planning judgement.
6. In regard to its size, the raised and enclosed timber decking provides a considerable extended area to the rear of the café. I am told, and it is not disputed that the area is approximately 66m² and approximately two-thirds of the footprint of the host premises. Thus, in terms of size it is relatively substantial.
7. The raised timber decked structure has remained at the site since at least October 2022 when the EN was served, thus has a considerable degree of permanence. Given its piecemeal construction and its size and shape to fit into the space behind the cafe, it would represent a bespoke development for the planning unit as opposed to modular structure that could be brought to the site. Whilst I would acknowledge that the structure could be dismantled and removed from site, this does not lessen its impact in respect to its permanence.
8. At the site visit I was unable to view the fixings associated with the raised timber decked structure, however from the evidence before me it appears that the deck does not have foundations and does not appear to be physically attached to the ground. From the photographic information the raised deck is held in place through its own weight resting on top of timber joists. Despite not being fixed to the ground by foundations, given its bespoke nature, size, shape and footprint it is unlikely that the structure has been or is capable of being moved elsewhere.
9. Overall, for the reasons stated above, as a matter of fact and degree, the raised timber decked structure is considered development under s55(1) of the 1990 Act as a building. For this reason, I conclude that, on the balance of probability, the construction of a building on the land has occurred.
10. Accordingly, the appeal on ground (b) must fail.

Appeal on Ground (a), the deemed planning application

11. Ground (a) is that planning permission should be granted for the matters alleged in the EN. Therefore, the main issues are the effects of the development on the character and appearance of the Hanger Hill conservation area (HHCA) and the setting of the Park Royal London Regional Transport Station and adjoining shops and flats², a Grade II listed building.

Reasons

Character and appearance of the HHCA and setting of the Grade II listed building

12. I have a statutory duty under s72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of the HHCA. Furthermore, s66 (1) of the Act requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural

¹ Skerrits of Nottingham Ltd v SSETR & Harrow LBC (No. 2) [2000] EWCA Civ 5569; [2000] JPL 1025

² Official list entry number: 1079328

or historic interest which it possesses when dealing with planning applications. The glossary of the National Planning Policy Framework (the Framework) gives a definition of the setting of a heritage asset as “the surroundings in which a heritage asset is experienced”. It goes on to advise that the extent of this setting is not fixed and may change as the asset and its surroundings evolve.

13. The Framework further advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 212 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be.
14. The significance of the HHCA is principally derived from its architectural and historic interest as an inter-war residential estate. Although the result of a planned estate, the HHCA offers a very diverse architectural character due to the combination of different house styles, designs and types. Within the HHCA are several locally and statutory listed buildings, including the grade II listed Park Royal station, subject to this appeal, that are testament to its strong architectural and historic significance.
15. The station has a circular booking hall and tower and a curved quadrant which include a block of shops adjoining to the right. The highly visible square tower attached to the booking hall has vertical brick fluting in its panels to the centre of each face, rising to circular panels carrying the London Regional Transport motif. Adjoining to its right is a 3 storey parade of shops with flats on top. The shops are separated by ceramic clad piers. There are ribbon windows above, consisting of closely spaced metal mullions and frames throughout the scheme which provide a horizontal emphasis.
16. It is acknowledged that the rear of Park Royal station lacks the architectural detailing of its façade, and given the rear is used for parking and servicing, it has a distinctly functional appearance. The provision of the overly large and noticeable enclosed raised timber decking at the appeal site appears as a very conspicuous development. The scale, form, materials and design are out of keeping with the style of the grade II listed building and as a result impact negatively on its setting, and provides additional clutter in the area to the detriment of the HHCA and its surroundings.
17. As such, the provision of the enclosed raised timber decking at the appeal site adversely affects the aforementioned characteristics of the HHCA and further erodes the setting, special interest and significance of the listed building. Nevertheless, I find the harm to the setting of the listed building and the HHCA to be less than substantial in this instance.
18. In accordance with paragraph 215 of the Framework, that harm, albeit limited, should be weighed against any public benefits of the proposal including, where appropriate, securing its optimum viable use. The site gives rise to some economic benefits providing a modest contribution to the vitality and viability of the local commercial area adjoining Park Royal station. The scheme also has some other benefits, including the support patrons would give to other local businesses and services. To these benefits I apportion modest weight given the limited scale and nature of the development.

19. However, these modest benefits are not considered to outweigh the identified harm to which I must attach considerable importance and weight. The development therefore, fails to preserve or enhance the setting, and thereby the significance of, the designated heritage assets. Consequently, I have found conflict with the statutory presumptions under Sections 66(1) and 72(1) of the Act, which carries considerable importance and weight. I have also found that there is conflict with the relevant sections of policies 7B and 7C of the Ealing Development Management Development Plan Document, adopted December 2013; policies 1.1 and 1.2 of the Ealing Development Strategy 2026, adopted April 2012; policies D3 and HC1 of the London Plan, adopted March 2021; and the Framework, insofar as they relate to heritage assets.

Conclusion

20. For the reasons given above, I conclude that the appeal development is contrary to the development plan as a whole, and that material considerations do not indicate that the appeal should be determined otherwise than in accordance with the development plan. The ground (a) appeal should not therefore succeed. I shall refuse to grant planning permission on the application deemed to have been made under s177(5) of the 1990 Act.

Robert Naylor

INSPECTOR