



Appeal Decision

Site visit made on 7 January 2026

by **L Douglas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13th January 2026

Appeal Ref: APP/U5360/C/25/3374157

149-150 Shoreditch High Street, Hackney, London E1 6HU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
 - The appeal is made by Imagineered Limited against an enforcement notice issued by the Council of the London Borough of Hackney.
 - The notice was issued on 22 August 2025.
 - The breach of planning control as alleged in the notice is 'Without planning permission, the installation of metal railings.
 - The requirements of the notice are: 1. Remove all metal railings on the front elevation and on the corner of the property in their entirety, leaving no metal railings remaining on the exterior of the building towards Shoreditch High Street and French Place, and as shown marked in red in Appendix 1 'Photograph of the metal railings'; 2. Make good all damage to the Property resulting from the removal of the unauthorised works as listed above; 3. 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 is three months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (d), (e), and (g) of the Act. 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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Decision

1. The appeal is allowed and the enforcement notice is quashed.

Preliminary matter

2. It is claimed that the notice is a nullity because the alleged breach benefits from planning permission. That is an argument relevant to the appeal under ground (c), which I deal with below. The contents of the notice accord with the statutory requirements as to what must be said on its face, set out at section 173(1) to (10) of the Act. It is not hopelessly ambiguous or uncertain, and it informs its recipients with reasonable certainty what the alleged breach is and what must be done to remedy it. The notice is not therefore defective on its face, and it is not a nullity.

The appeal under ground (e)

3. It is claimed that copies of the notice were not served as required by section 172 of the Act. Section 172(2) requires a copy of the notice to be served on: (a) the owner and the occupier of the land to which it relates; and (b) any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice. Copies of the notice were served on owners and occupiers of the site and Flats 1, 2, and 3 at the site, amongst others.
4. The appellant has suggested that an unidentified advertiser/tenant is responsible for the alleged breach, rather than any party served with a copy of the notice, and

that leases exist which prevent others from removing the metal railings. No copies of leases have been provided to show how this may be the case.

5. Section 176(5) of the Act provides that where it would otherwise be a ground for determining the appeal in favour of the appellant on the grounds that a party required to be served with a copy of the notice was not served, I may disregard that fact if neither party has been substantially prejudiced by the failure to serve them.
6. The appellant, as the owner of the site, has been able to submit a detailed appeal on multiple grounds and I see no reasons why they or any other parties may have been substantially prejudiced by the failure to serve a copy of the notice on an unidentified advertiser/tenant. Therefore, with regard to section 176(5) of the Act, I shall disregard the fact that an unidentified advertiser/tenant, who may have been responsible for the metal railings, was not served with a copy of the notice.
7. The appeal under ground (e) therefore fails.

The appeal under ground (c)

8. With regard to section 174(2)(c) of the Act, to succeed under this ground of appeal the appellant needs to show, on the balance of probabilities, that the metal railings do not constitute a breach of planning control. The wording at section 174(2)(c) is phrased in the present tense, and for the appeal to succeed it does not matter whether the metal railings were previously in unauthorised, provided they are no longer in breach of planning control.
9. The site is a corner plot occupied by a four-storey building with three distinct elevations at all floor levels: a front elevation facing onto Shoreditch High Street, a side elevation facing onto French Place, and an oblique corner elevation between the front and side elevations.
10. Metal railings were installed at first-floor level on all three elevations of the building without the benefit of planning permission. It is not in dispute that those works comprised development requiring planning permission. The Council subsequently issued an enforcement notice on 17 May 2024 ('the first notice') attacking 'the installation of metal railings' at the site. The first requirement of that notice was: *'Remove the metal railings on the flank elevation of the building, as shown marked in red in Appendix 1 'Photograph of the metal railings''*. The other requirements were to repair the building after removing those railings and to remove all resulting items.
11. The metal railings on the French Place elevation were subsequently removed and the Council later issued the second notice, the subject of this appeal. It is the appellant's case that the first notice was complied with, and that under the provisions of section 173(11) of the Act the metal railings which remain in place on the Shoreditch High Street and corner elevations are no longer in breach of planning control.
12. Section 173(11) is as follows:

'Where—

(a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and

(b) all the requirements of the notice have been complied with,

then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.'

13. The description of the breach of planning control in the first notice did not specify which metal railings it was referring to, and it therefore attacked all metal railings on all three elevations of the building. The Council's submissions confirm this was its intention. However, the first notice only required the removal of the metal railings on 'the flank elevation', as shown marked in red in a photograph attached to that notice. Notwithstanding the fact that the photograph attached to the first notice shows the metal railings on all three elevations within an area marked red, that notice very specifically only requires the removal of the metal railings on the flank elevation (singular) of the building. The steps required to be taken do not require the removal of any metal railings on any other elevations, despite them also being within the area marked red on the photograph attached to the notice.
14. As set out above, it is clear that the elevation facing onto Shoreditch High Street is the front elevation of the building. That is the main highway where it takes its address from, and this is its most architecturally important and ornate elevation, with a large Dutch gable at third floor level. In comparison, French Place is a narrow and minor offshoot from Shoreditch High Street with bollards restricting vehicular access, and the French Place elevation appears narrower and more subordinate than the front elevation, with a functional chimney stack at third floor level rather than a decorative gable.
15. In this context, the Shoreditch High Street elevation could not reasonably be described as a side elevation or the flank elevation of the building, whereas the French Place elevation is very clearly the side elevation of the building. The appellant has referred to an online Cambridge dictionary definition of 'flank', which is said to mean 'the side of something'. This is consistent with what I would consider to be the general understanding of the term, and I do not see how any elevation other than the French Place elevation could reasonably be described as the flank elevation of the building. Indeed, the Shoreditch High Street elevation has been referred to as 'the front elevation' by the Council in the notice the subject of this appeal, and the relevant officer report¹ states: *'the requirements of the [first] enforcement notice failed to include the metal railings in their entirety as the requirement specifically addressed the metal railings on the flank wall. The metal railings on the flank wall were removed. However, there are still metal railings on the corner of the property and the front facade facing Shoreditch High Street.'*
16. It has been suggested by the Council that the term 'flank' can only be interpreted broadly in this instance to encompass all adjoining façades that meet at the corner, on account of a claimed lack of clear architectural and street hierarchy between the elevations. For the above reasons, that is incorrect. In any case, the first requirement of the first notice only refers to a single elevation, and it must be indisputable that the building comprises more than a single elevation.
17. Consequently, following the removal of the railings from the French Place elevation, the repair of that elevation and the removal of associated items, the first notice was

¹ Appendix 21 to the Council's appeal statement

complied with. If this is incorrect, and the first notice had not been complied with, it is unclear why the Council proceeded to serve the notice the subject of this appeal as an alternative to considering prosecuting the relevant parties. It appears that the Council may have made an error when drafting the first notice and inadvertently 'under enforced' against the metal railings on the Shoreditch High Street and corner elevations. Moreover, rather than considering withdrawing the first notice and correcting the apparent error, it issued the notice the subject of this appeal with no regard to section 173(11) of the Act.

18. I have been referred to section 171B(4)(b) of the Act, commonly referred to as the 'second bite' provisions. However, this has no effect on the application of section 173(11), as it merely provides local planning authorities with opportunities to take further enforcement action where the periods referred to by section 171B(1) to (2A) have otherwise expired. The Council's references to case law in this regard are misplaced as the first notice attacked all metal railings at the site and could have required the removal of all metal railings from all three elevations, but it did not.
19. As a matter of fact and degree, the first notice has been complied with. Planning permission should therefore be treated as having been granted by virtue of section 73A of the Act in respect of the metal railings, which are no longer in breach of planning control.
20. The appeal under ground (c) therefore succeeds.

Conclusion

21. For the reasons given above, I conclude that the appeal should succeed on ground (c). The enforcement notice will be quashed. In these circumstances, the appeal on grounds (a), (d), and (g) and the application for planning permission deemed to have been made under section 177(5) of the Act do not fall to be considered.

L Douglas

INSPECTOR