



Appeal Decision

Site visit made on 12 March 2026

by **M Bale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 March 2026

Appeal Ref: APP/A5840/C/25/3358411

230 Old Kent Road, London SE1 5UB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Aamir Ashiq Dewan against an enforcement notice issued by the Council of the London Borough of Southwark.
- The notice was issued on 5 December 2024.
- The breach of planning control as alleged in the notice is: Unauthorised development: the upward extension of the building, resulting in the creation of a new storey. Unauthorised Development: the formation of an additional residential unit.
- The requirements of the notice are to:
 1. Remove the upward extension.
 2. Restore the parapet line so that the building reads as the same height as No 232 and appears as before the unauthorised development occurred.
 3. Remove all debris resulting from the above works and dispose of properly.
- The period for compliance with the requirements is: 3 months after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b) and (f) 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.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with a correction in the terms set out below in the Formal Decision.

Preliminary matters

1. The appellant's statement makes a passing reference to an application for costs. However, no such formal application has been made, and I see no clear reason why unreasonable behaviour has occurred such that I might instigate an award. I have, therefore, considered this matter no further.
2. There is discussion in both parties' evidence about whether an additional unit of accommodation has been formed. That is relevant to an appeal on ground (b), that the matters alleged in the Notice have not occurred. While not formally pleaded, as both parties have commented, no injustice would arise to either party if I were to also consider the appeal on ground (b).

Ground (b)

3. The appellant claims that the additional floor space has not created an additional unit of accommodation, rather extra floorspace for flat 3. The Council undertook a site visit on 28 January 2025 and report that, at that time, building work was ongoing, it was not possible to discern the final layout but, at that point, no additional unit had been created.
4. It, therefore, appears more likely than not that at the time the Notice was served, being 5 December 2024, the formation of an additional unit had not occurred. The appeal on ground (b) succeeds to this extent and the Notice should be corrected.

5. I will, therefore, amend the allegation, by deleting paragraph 3.2 from the Notice, as set out in my formal Decision. The appeal on grounds (a) and (f) shall proceed on the basis of the amended allegation.

Ground (a)

6. Ground (a) is that planning permission should be granted for the matters alleged in the Notice. As corrected, that is the upward extension of the building, resulting in the creation of a new storey. The main issue is the effect on the character and appearance of the Thomas A'Becket and High Street Conservation Area ("CA").
7. The site is a mid-terrace 3 storey (plus basement) building. The multi-storey parts of the terrace stand behind ground floor projections in a variety of commercial uses. Other than No 254 towards the other end of the terrace, the upper floor windows broadly align along the terrace, with a parapet above the 2nd floor.
8. There are other tall buildings in the general vicinity of the site. However, the CA appraisal describes how Nos 222-250 are an early example of speculative ribbon development along the Old Kent Road. Just because they are not listed, or worthy of listing, does not mean that the buildings cannot make a valuable contribution to the character and appearance, or understanding of the CA.
9. The CA appraisal describes how the buildings have been heavily altered and are a mix of 18th-, 19th- and 20th-century fabric. The terrace is described as being disfigured, and I observed that a great deal of any visual uniformity has been lost. Nevertheless, the basic form of the buildings with a parapet above the 2nd floor gives a general consistency in appearance to the building height. That is not significantly diminished by the variations in height of the parapet, or any disfigurement of the facades. Nos 220-224 have a 3rd floor within in a mansard roof, behind the parapet. Like an addition behind the parapet at No 240, the design of these appear as obvious roof-level additions.
10. Conversely, the upward extension at the appeal site and additional storey has extended the main face of the building upwards across the parapet line. The windows align with the parapet and, being flush with the front façade, the building now appears as an unusually tall structure in the terrace. That causes harm to the character and appearance of the terrace, and its contribution to the significance of the CA as a long-standing, early group of buildings. The design and positioning of the extension means that alternative facing materials would not remedy the harm.
11. Given the localised effect on the CA, that harm would be less than substantial, and at the lower end of the scale. The National Planning Policy Framework sets out that the conservation of heritage assets should be given great weight. Nevertheless, any harm, regardless of the extent of that harm, should be weighed against the public benefits of the proposal. The additional floorspace is described by the appellant as providing additional living accommodation to the 3rd floor flat. Whilst that may be beneficial to the occupiers, it has limited weight as a public benefit. No other obvious public benefits are put before me. Thus, I find that the public benefits in this case do not outweigh the less than substantial harm that I have identified.
12. For the above reasons, the development is in conflict with those aims of Policies HC1 of the London Plan 2021 and P20 of the Southwark Plan 2022 that seek to

preserve or enhance the character and appearance of conservation areas and their significance.

13. There are no other material considerations that indicate that a decision should be taken otherwise than in accordance with the development plan. Therefore, planning permission should not be granted for the matters alleged and the appeal on ground (a) fails.

Ground (f)

14. The purpose of the Notice is to remedy the breach of planning control. In that context, an appeal on ground (f) is that the steps required to be taken exceed what is reasonably necessary to remedy the breach of planning control. Whether lesser steps could remedy any injury to amenity is not relevant.
15. In any case, I have already found that the development is unacceptable regardless of the external materials. Even considering the case on ground (f) alongside that on ground (a), it would not, therefore, be appropriate to grant permission subject to conditions that the final finish were agreed.
16. The Notice requires the removal of the unauthorised development. No lesser steps have been suggested that would remedy the breach of planning control. Therefore, the appeal on ground (f) should fail.

Conclusion

17. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the Notice with a correction and refuse to grant planning permission on the application deemed to have been made under Section 177(5) of the Town and Country Planning Act 1990 (as amended).

Formal Decision

18. It is directed that the enforcement notice is corrected by:

In Section 3 ‘the matters which appear to constitute the breach of planning control’, delete the text “3.2 Unauthorised Development: the formation of an additional residential unit”.

19. Subject to the correction, 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 Town and Country Planning Act 1990 (as amended).

M Bale

INSPECTOR