



Appeal Decision

Site visit made on 10 March 2026

by **Robert Naylor BSc (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 March 2026

Appeal Ref: APP/F5540/C/24/3356038

The Cottage, The Ossiers, Chiswick Mall, London W4 2PS

- 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 Adam Harper against an enforcement notice issued by the Council of the London Borough of Hounslow.
- The notice was issued on 14 October 2024.
- The breach of planning control as alleged in the notice is *without planning permission, the unauthorised erection of an outbuilding and the unauthorised erection of a boundary treatment*.
- The requirements of the notice are:
 - i. *Demolish the outbuilding cross hatched in black*
 - ii. *Demolish the front garden boundary treatment fronting Chiswick Mall*
 - iii. *Remove all resultant debris from the Land*
- The period for compliance with the requirements is: *3 months after the date this notice takes effect*.
- The appeal is proceeding on the grounds set out in section 174(2)(c) and (f) of the 1990 Act (as amended).

Formal Decision

1. It is directed that the appeal is dismissed, and the enforcement notice is upheld.

Preliminary Matters

2. At the site visit and from some of the communication prior to the visit, it is clear the front garden boundary treatment fronting Chiswick Mall has been removed and replaced with a hedge. However, there is no dispute that the development had occurred. Section 181(1) of the 1990 Act (as amended) makes it clear that compliance with a notice does not discharge it. This appeal still needs to be determined in the absence of either its withdrawal by the appellant or by the notice being withdrawn by the Council. Whilst this forms a different development to that alleged in the notice, I have based my decision on the development that existed at the time the enforcement notice was served.

Appeal under ground (c)

3. An appeal under ground (c) is that those matters (if they occurred) do not constitute a breach of planning control. In a legal ground of appeal, the onus of proof is firmly on the appellant to make their case, on the balance of probabilities¹.
4. The arrangement of garden frontages is unusual along this stretch of the Thames. The houses on the north side of the bank are separated from their front garden spaces by Chiswick Mall. This layout provides a distinctive open and verdant finger of land adjoining the river Thames. The appeal is located in this green area and consists of an outbuilding and boundary treatment which fronts Chiswick Mall. The

¹ *Thrasyvoulou v SSE & Hackney LBC (No 1)* [1984] JPL 732

question is therefore whether, at the time of the notice, the proposed development would be considered permitted development (PD).

5. Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO) confirms that buildings, enclosures, swimming or other pools that are incidental to the enjoyment of a dwellinghouse are considered PD subject to criteria. Criterion E.1(c) states that development is not permitted if *“any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse.”*
6. As stated, the unusual layout along Chiswick Mall provides a garden area forward of the principal elevation at The Cottage. Given that the principal elevation of The Cottage is the southern elevation accessed via Chiswick Mall, the outbuilding would be located forward of the wall forming the principal elevation of the original dwellinghouse. Therefore, I conclude that the scheme would not comply with the limits and conditions of PD, as set out in Schedule 2 Part 1 Class E.1 (c) of the GDPO and subsequently planning permission would be required.
7. With regard to the now removed boundary treatment, Schedule 2 Part 2 Class A of the GDPO permits the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure subject to certain limitations. Paragraph A.1 states that such development is not permitted by Class A if the height of the enclosure adjacent to a highway used by vehicular traffic would, after carrying out the development, exceed one metre above ground level.
8. Both parties agree that at the time of the notice, the boundary treatment exceeded these limitations. I acknowledge that the fencing and trellis work provided increased security and privacy for the appellant, although I also note that it has since been removed. Nevertheless, at the time of the notice, this development would not have been considered PD and planning permission would have been required for the structure. Thus, it would have constituted a breach of planning control.
9. Therefore, the appeal on ground (c) does not succeed.

Appeal under ground (f)

10. An appeal on ground (f) is made on the basis that the requirements of the notice exceed what is necessary. Section 173(4) of the 1990 Act (as amended) sets out the purposes which an enforcement notice may seek to achieve. They are either (a) remedying of the breach of planning control or (b) remedying any injury to amenity which has been caused by the breach.
11. The notice requires the outbuilding and the boundary treatment to be removed. This is as opposed to requiring these structures to be modified by, for example, reducing them in size. Removing the outbuilding and the boundary fence would restore the land to its condition before the breach took place. Therefore, the purpose of the notice must be to remedy the breach.
12. The appellant highlights other examples of outbuildings within the area, which have allegedly been granted planning permission by the Council, although I have not been presented with the details of these developments. The appellant further suggests that the outbuilding has been constructed with a flat roof and in materials

that would be consistent within the Old Chiswick Conservation Area, thus would at the very minimum preserve its significance. The appellant also refers to landscaping measures that could mitigate any impacts of the outbuilding.

13. These matters relate to the planning merits of the case rather than the purpose of the notice, which should be addressed under a ground (a) appeal. However, as the Council issued the enforcement notice within two years, following the refusal of related applications², this prevents the appellant from appealing the notice under ground (a) in accordance with section 174 (2A) of the 1990 Act (as amended). Consequently, it is not open to me to consider the planning merits under a ground (f) appeal.
14. As there are no lesser steps progressed by the appellant, I have not been presented with an obvious alternative to the requirements of the enforcement notice. As such, I have no basis on which to consider whether another option is viable as this could prejudice the parties. However, this does not preclude the appellant from exploring an alternative scheme with the Local Planning Authority via an appropriate planning application.
15. Therefore, the steps set out in the notice are not excessive; they are proportionate and commensurate to the breach of planning control, being the minimum that is required to restore the property to its condition prior to the breach taking place.
16. Consequently, the ground (f) appeal fails.

Conclusion

17. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice accordingly.

Robert Naylor

INSPECTOR

² London Borough of Hounslow Planning Refs: P/2023/2348 and P/2024/2526