



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: 22 April 2026

Appeal Ref: APP/A5840/C/24/3352546 223-225 Ilderton Road, London SE15 1NS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by LanePark Properties Ltd against an enforcement notice issued by the Council of the London Borough of Southwark.
- The notice was issued on 28 August 2024.
- The breach of planning control as alleged in the notice is: Without planning permission, the erection of a second storey extension, the creation of new window openings and installation of uPVC windows and the rendering of the exterior of the building ("the Unauthorised Development").
- The requirements of the notice are to:
 1. Return the building to its condition prior to the Unauthorised Development taking place, as is shown in the photographs included as Appendix 1¹. For the avoidance of doubt this includes: demolishing the second storey extension; removing the external render from the building and reinstating exposed London stock brickwork; amending the window openings to match the previous arrangement and size; removing the uPVC windows and reinstating timber sash windows; reinstating the chimney and central parapet.
 2. Remove from the land any materials and debris resulting from the carrying out of the above step.
- The period for compliance with the requirements is: 6 months after the Notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f), and (g) 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.
- This decision supersedes that issued on 25 June 2025. That decision on the appeal was quashed by order of the High Court.

Summary Decision: The appeal is dismissed, the enforcement notice upheld with a variation, and planning permission is refused.

Preliminary Matters

1. The site was previously a two-storey building with a commercial use at ground floor level. Permission was granted to change its use into 4 flats – two at ground floor and two at first floor ("the 4 Flat Permission"). Permission was also, separately, granted for an upward extension to form two further flats at second floor level ("the 2 Flat Permission"). Plans for the 2 Flat Permission showed the ground floor commercial frontage retained.
2. Subsequently, under S73 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act"), permission was granted without complying with conditions of the earlier permissions in respect of both the 4 Flat Permission and the 2 Flat Permission. Further S73 applications were made in respect of both of those permissions and were refused.
3. The refusals were subject to appeals, ref APP/A5840/W/24/3347453 and APP/A5840/W/24/3347457. They were determined within the same decision letter of 25 June 2025 as the, now quashed, decision on the current appeal. Those

¹ Being reference to Appendix 1 of the enforcement notice.

decisions were not challenged and, thus, the Inspector's decision to take no further action in respect of those appeals still stands.

4. Indeed, the building has now been extended upwards and put to use as 6 flats – two on each of the 3 floors. The internal arrangement differs from that shown on the plans for the 4 Flat Permission and the 2 Flat Permission (and their S73 successors). There are also numerous, obvious, variations in respect of the external appearance, including to the shape, materials, fenestration – especially to the front elevation, and there is a further second floor extension to the rear of the building.
5. Thus, the building now at the site does not resemble or reflect any of the previous permissions, either in part or as an amalgamation of them. A materially different development has been carried out. That appears to have been accepted by all parties in the High Court proceedings that followed the previous decision in this case, and I have no reason to reach a different view. This means that the 4 Flat Permission and 2 Flat Permission (and their S73 successors) have expired without being lawfully commenced.

The enforcement notice

6. The enforcement notice subject to this appeal (“the Notice”) alleges unauthorised operational development that includes a second storey extension, amongst other changes. Its requirements are to return the building to its condition prior to the unauthorised development taking place.
7. The appellant suggests that it is unclear whether the Notice requires the building to be brought into line with the previous planning permissions, or the state before they were granted. However, the Notice precisely specifies that the works include demolishing the second storey extension, and includes photographs of the condition of the building before the development was carried out. It is clear that the requirements are to remedy the breach of planning control by returning the building to its condition before the planning permissions were granted.

Ground (a)

8. Insofar as it relates to this appeal, ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The main issues are the effect on the character and appearance of the area and upon fire safety.

Character and appearance

9. The appeal site is part of a terrace of older properties within an area that has undergone considerable change and displays considerable townscape variety. To one side of the terrace are a range of utilitarian buildings of industrial character. To the other, are examples of new high-rise housing development. The additional height of the 2nd floor extension is not, in itself, incompatible with the wider area.
10. However, whereas the architectural form, shape and detailing of the 4 Flat Permission and 2 Flat Permission were based upon the original architecture of the building and terrace, the development carried out bares little relation to it. The 2 Flat Permission would have significantly increased the building's height, but it would have still retained a similar architectural language.

11. Notwithstanding the previous condition of the building, that there have been other alterations to the wider terrace, and that the building itself had an array of materials and commercial ground floor appearance, the development carried out does not respect the host building or the terrace to which it is adjoined. Even if the previously permitted alterations to the building would have reduced the value as a non-designated heritage asset, the constructed details do not reflect or respect the surrounding modern styles emerging either:
12. While the rear extensions may sit comfortably amongst the significant changes to the back of the building, the front appears as a disjointed collection of windows and doors on a somewhat bland front elevation, with little architectural unity. Windows are poorly positioned, sized and detailed relative to the elevation and the building as a whole. Collectively, this harms the character and appearance of the host building and the wider area, failing to reflect the quality of the remaining historic environment, or new modern context.
13. In light of the above, I find that the development conflicts with those aims of Policies D4 and HC1 of the London Plan 2021 ("LP"), and Policies P13, P14 and P21 of the Southwark Plan 2022 that seek to ensure that development secures a high standard and quality of design that responds positively to its context, conserving the historic environment.

Fire Safety

14. LP Policy D12 requires development to achieve the highest standards of fire safety. I understand the Building Regulations approval may have been obtained for the development, and it is unclear what additional information or assurance the Council is seeking. I, therefore, find no conflict with Policy D12.

Conclusion on ground (a)

15. The development that has been carried out, being the matters alleged in the Notice, causes material harm to the character and appearance of the area and results in conflict with the development plan read as a whole. No material considerations have been shown to indicate that a decision should be taken otherwise than in accordance with the development plan. I, therefore, conclude that planning permission should not be granted for them.
16. Nevertheless, the building is said by the appellant to be of the same overall height as that previously granted by the 2 Flat Permission and, collectively, there have been permissions granted for 6 flats over 3 floors at the site. Thus, it may be that there is a logical amalgamation of those previous permissions that could be granted, if it could be considered as part of the matters alleged.
17. However, there are practical difficulties here. The matters alleged relate to unauthorised development across the whole building, whereas the only plans before me are split between the ground and first floors, and new second floor. There is no single set of plans to show clearly what alternative scheme I could consider, and the two proposals have different internal layouts, especially in respect of the first floor. Any permission for an alternative scheme, spread across multiple sets of plans, none of which actually showed all of the development being permitted, may lack clarity, making the requirements of the Notice imprecise.

18. Moreover, the potential alternative schemes were drawn up to support the change of use to 4 flats, or extensions to allow 2 second floor flats, in combination making a scheme for 6 flats. The matters alleged do not include any reference to the use of the building. Only unauthorised operational development is specified. Therefore, the development shown in the 4 Flat Permission, 2 Flat Permission, or any amalgamation of the two, cannot be regarded as part of the matters alleged. The present case is distinguished in this regard from that of *Mahfooz Ahmed v SSCLG and London Borough of Hackney* [2014] EWCA Civ 566, where the use of the building was also set out in the alleged breach of planning control.
19. Even if, in the present case, the use can be divorced from the physical alterations to the building it may be left useless, which would leave considerable uncertainty and be undesirable. Alternatively, if by virtue of S75(3) of the 1990 Act the use that would be granted would be the purpose for which the development was designed, i.e. 6 flats, it has not been shown by the appellant that such a permission would comply with the development plan. In particular, and notwithstanding the benefits of providing additional housing in this location, it would seem necessary to consider affordable housing policies, which the Council explains have changed since the 4 Flat Permission and 2 Flat Permission were granted. It has not been shown how such policy requirements would be met.
20. Therefore, I conclude that there is no obvious alternative scheme that would comprise part of the matters alleged that should be granted planning permission. Accordingly, the appeal on ground (a) should fail.

Ground (f)

21. The purpose of the Notice is to remedy the breach of planning control. In this scenario, ground (f) is that the steps required by the Notice to be taken, or the activities required by the Notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters.
22. As previously outlined, the requirements clearly require a return to the condition of the building prior to the previous grant of planning permissions. As the 4 Flat Permission and the 2 Flat Permission are no longer extant, the Notice cannot require modification to comply with those. I have further found, in considering the appeal on ground (a), that there is no obvious alternative comprised in part of the matters alleged that could be granted planning permission now.
23. Therefore, there are no obvious lesser steps available that would remedy the breach of planning control. Accordingly, the appeal on ground (f) should fail.

Ground (g)

24. Ground (g) is that the period specified to comply with the requirements of the Notice fall short of what should reasonably be allowed. The 6 flats are currently occupied and it would not be possible to comply with the Notice while that occupation continued. It will likely take some time to provide reasonable notice to the occupiers, instruct contractors, and carry out the work required. I, therefore, find that the 6 month time period would appear somewhat unreasonable.
25. It has not, however, been demonstrated why the full year suggested would be required. It would seem that planning and preparation for the works could take place simultaneously with the occupants being served notice to leave the flats. I,

therefore, conclude that the ground (g) appeal should succeed in part, and the Notice should be varied to specify a 9 month time period. On the basis of the limited evidence, that would seem to strike a proportional balance between the need to resolve the breach of planning control and the inconvenience that will inevitably arise to the occupants.

Formal Decision

26. It is directed that the enforcement notice is varied by:

the deletion of the text "Six (6)" and its substitution with the text "Nine (9)" in section 6 'Time for Compliance'.

27. Subject to the variation, 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 1990 Act as amended.

M Bale

INSPECTOR