

Appeal Decision

Site visit made on 8 April 2026

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th April 2026

Appeal Ref: APP/N4720/C/25/3371861

Land at 72A Victoria Road, Hyde Park, Leeds, LS6 1DL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr G Maslavica against an enforcement notice issued by Leeds City Council.
- The notice was issued on 30 July 2025.
- The breach of planning control as alleged in the notice is: without planning permission, the erection of external decking with access ramps and canopy to the front of the premises.
- The requirements of the notice are:
 - Step 1) Demolish the unauthorised external decking, access ramps and canopy to the front of the premises in its entirety and remove all the material and debris from the land and restore the land to its former condition.
 - Step 2) Make good any stonework on the original building with matching stone and jointing materials.
 - Or
 - Step 3) Demolish the unauthorised external decking, access ramps and canopy to the front of the premises in its entirety and remove all the material and debris from the land so that it accords with the decking approved under planning permission 21/03819/FU drawing number 0011.
- The period for compliance with the requirements is: three months beginning with the day on which this notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a) 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 allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Background

1. Planning permission ref 21/03819/FU was granted on 25 October 2021 for change of use of hairdresser/beauty salon to restaurant, construction of external deck to front area and associated parking. The change of use has taken place, however, the external decking to the front does not accord with the approved plans, and a breach of planning control has therefore occurred.

Appeal on ground (a) and the deemed planning application

2. An appeal on ground (a) is made on the basis 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.

Main Issue

3. The main issue, having regard to the Council's reasons for issuing the notice, is the effect of the development on the character and appearance of the area.

Reasons

4. Buildings along the northern side of this part of Victoria Road comprise linear blocks of traditional houses, set back from the road and pavement, behind long

front gardens, which in the case of numbers 72, 72A and 74, have been hard surfaced and had their means of enclosure removed to create an open forecourt. Although the area is predominantly residential, the ground floors of the appeal building and those to either side, opposite and to the rear of it, are in commercial use.

5. The external decking, access ramps and canopy constructed to the front of 72A, fail to respect the strong established building line along this part of Victoria Road, due to their height above ground level and substantial forward projection, which disrupts and obscures the frontage of the host building and adjacent premises, and detracts from the open appearance of other frontages in the area. This harm is exacerbated by the use of poor-quality materials, which are painted an unsympathetic solid pink colour.
6. For the reasons outlined above, the development harms the character and appearance of the host property, the wider terrace and the surrounding area. As such it conflicts with policy P10 of the Leeds Core Strategy (as amended by the Core Strategy Selective Review 2019), and saved policy BD6 of the Leeds Unitary Development Plan (Review 2006). These policies seek to ensure amongst other things that the size, scale, design and layout of development is appropriate to its context and respects the character and quality of surrounding buildings, streets and spaces, and that alterations and extensions respect the scale, form, detailing and materials of the original building.
7. The development also conflicts with paragraphs 135 and 139 of the National Planning Policy Framework, which seek to achieve well-designed places.

Other Considerations

8. Section 177(1) of the 1990 Act provides that planning permission may be granted in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates. It follows from the wording of section 177(1) that the deemed planning application can only relate to the matters stated in the notice.
9. The appeal has been made on grounds (a) and (f), with an alternative scheme, as shown in Drawing Number 004 Revision A and an image contained within Section 3 of the appellant's statement, being offered. The alternative scheme shows the decking, access ramps and canopy retained, with some minor modifications to improve their appearance within the street scene. As the alternative scheme before me relates to part of the matters stated in the notice, I have considered this on ground (a). The Council has confirmed that subject to the proposed revisions being applied to all three sides of the development, it would be acceptable.
10. Whilst my attention has been drawn to the covered external seating and decking areas to the front of adjoining number 74, and number 149 on the opposite side of the road, these are significantly different in scale and appearance to the appeal development, and as such are not comparable. Furthermore, I understand that these developments do not have planning permission, albeit they have been present for some time without any enforcement action having been taken and now form part of the character and appearance of the area.
11. The fallback position is that the development could be replaced with the approved outdoor seating area. Although this would be lower in height and would not include

a canopy, it would project the same or a similar distance from the front of the building as the existing development, and I have seen no evidence to suggest that the materials and colour of the approved scheme were conditioned or detailed on the approved plans. Whilst I am advised the Design and Access Statement referred to timber painted mid grey, it is unlikely that these matters could be controlled by the local planning authority, or that painting the whole development mid grey would notably improve its appearance.

12. Notwithstanding the fact that the fallback position would not include a canopy, and that the appellant states altering the structure to comply with the approved plans would effectively involve total removal and reconstruction, I consider the likelihood of this occurring to be highly probable, given the effect that the loss of the external seating area would have on the business. Accordingly, the fallback position is more than merely a theoretical prospect. For these reasons, I afford the fallback position significant weight. Moreover, subject to it being painted a more neutral colour, I do not consider the canopy, which is open sided and similar in height and depth to that at adjoining number 74, to be unacceptable.
13. I also attach moderate weight to the fact that the development as constructed, with the canopy, increases the amount of covered seating available to customers, supporting the operation and viability of the restaurant, bringing some economic and community benefits.
14. It is suggested that the canopy helps to reduce noise experienced by occupiers of the flats above the restaurant, however, there is little evidence before me to demonstrate this. It is also stated that the development as constructed provides an improved gradient for wheelchair users, but both the approved drawing and the drawing submitted with the appeal show a 1 in 15 access ramp gradient. As such, I afford these matters little weight.

Planning Balance and Conclusion

15. The external decking, access ramps and canopy conflict with the development plan and the Framework, in so far as they seek to achieve high quality design. However, I afford significant weight to the fallback position and moderate weight to the economic and community benefits. I am also satisfied that the proposed modifications, which could be conditioned, would vastly improve the existing appearance of the development.
16. These material considerations indicate that the appeal should be decided other than in accordance with the development plan.
17. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the alternative scheme to that described in the notice. The appeal on ground (f) does not therefore fall to be considered.

Formal Decision

18. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the erection of external decking, access ramps and canopy to the front of the premises, on land at 72A Victoria Road, Hyde Park, Leeds, LS6 1DL, subject to the following conditions:

- 1) Within 3 months of the date of this decision, the undercroft shall be boarded with MDF, as shown on drawing Number 004 Revision A, and the undercroft boarding, the canopy framework, the balustrade railings and the string course, on all three sides of the development, shall be painted in accordance with the artwork and colour scheme shown in the image in Section 3 of the appellant's grounds of appeal. The alterations and colour scheme shall thereafter be retained.
- 2) The development hereby permitted must be removed if the requirements of condition 1 are not complied with within the prescribed timescale.

R Bartlett

INSPECTOR