

Appeal Decision

Site Visit made on 7 January 2026

by J Whitfield BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th May 2026

Appeal Ref: APP/K5600/C/24/3340011

1A Victoria Gardens, London W11 3PE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Michael Young against an enforcement notice issued by Royal Borough of Kensington and Chelsea.
- The notice was issued on 25 January 2024.
- The breach of planning control as alleged in the notice is, without planning permission, the erection of a timber screen on top of the flat roof at first floor level.
- The requirements of the notice are:
 - i. Remove all of the wooden screen from the land; AND:
 - ii. Remove from the land any resultant debris.
- The period for compliance with the requirements is: 1 month.
- The appeal is proceeding on the grounds set out in section 174(2)(a) 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.

Decision

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

Ground (c)

2. The appeal was initially made solely on ground (a). However, the appellant has made points which are in effect arguments which fall to be considered under ground (c) of S174(2) of the Act. The LPA has made submissions on those arguments in their statement under the heading “ground (c) appeal”. As a result, I am satisfied no injustice would arise to the LPA were I to consider the matter accordingly. Ultimately, it is incumbent on me to get the notice in order where the evidence before me indicates it is necessary to do so and if the evidence before me suggests that the alleged breach of planning control does not constitute a breach of planning control, then I must consider it accordingly.
3. The Land comprises a single storey, detached property with a roof terrace in the former garden of 57 Ladbroke Road. Planning permission was granted on 2 May 2019 for the, “excavation and provision of single-storey basement extension beneath existing building and beneath rear parts of site together with the associated provision of front and rear light-wells, erection of extensions at rear ground and first floor levels, provision of a rear raised level terrace area, modifications to rear roof dormer, general elevational alterations, erection of self-contained 1 x bed dwelling featuring a roof terrace area within rearmost parts of site (facing onto Victoria Gardens) plus conversion of existing building into 3 x self-contained residential units”, at 57 and 57A Ladbroke Grove.¹

¹ LPA Ref: PP/18/08083

4. The LPA argues that the development approved by the 2019 permission does not include a timber screen on the roof terrace. The description of development does not explicitly refer to boundary treatment on the roof terrace. However, the roof terrace itself is explicitly referred to in the description of development and shown on the approved plans. The permission was granted subject to a condition which specified the approved plans the development must have been constructed in accordance with. There is no separate condition requiring details of boundary treatment on the roof terrace to be agreed. The approved drawings show the roof terrace would be bound in part by black painted metal railings, set back from the façade line and 1.1m above terrace level. No timber screen is shown. It follows, therefore, that 2019 permission incorporates boundary treatment on the roof terrace, in the form as shown on the approved plans comprised in the 2019 permission.
5. A subsequent application under S73 of the Act to vary the approved plans to the 2019 permission was approved on 11 April 2022². The description of development in the 2022 S73 permission refers only to some elements of the development which were sought to be changed. There is no explicit reference in the description to the erection of a timber screen or any alterations to the approved boundary treatment. However, reading the decision as a whole, with its conditions, I find that it is to be interpreted to require the development subject of the 2019 permission to be carried out in strict compliance with the approved plans attached to the 2022 S73 permission.
6. Those approved plans show that the same black painted metal railings would be included on the roof terrace. However, the plan is also annotated to say the railings would have timber screening to the background. Whilst elevational details of the timber screening are not shown on the approved drawing, the approved floor plans indicate that a “trellis for screen” on two sides of the roof, in approximately the same position as the screen subject of this notice, would be provided. There is nothing within the decision or its conditions which require further details of the timber screen to be agreed nor explicitly exclude the erection of a timber screen from the permission. As a result, I find the approved plans incorporate the erection of a timber screen on the roof terrace.
7. Thereafter, a further S73 application to vary the approved plans attached to the 2019 permission was approved by the LPA on 28 July 2023. The LPA argues that the application related only to the replacement of the sliding glazed roof access, and the timber screening around the roof terrace was outside the scope of the development. However, whilst the description of development says variation of condition 2 of the 2019 permission “to amend rooflight opening, access door to be hinge opening and not sliding”, the overall description of development remains that as of the 2019 permission. Thus, whilst it does not include explicit reference to boundary treatment on the roof terrace, that was the case with the original 2019 permission and the approved development retains reference to “featuring a roof terrace.”
8. The approved plans of the 2023 S73 permission clearly show the erection of a “pressure treated timber cladding trellis privacy screen”. Whilst on one approved drawing it is shown as horizontal slats, the other approved drawing shows the screen as vertical slats in essence in the same design as that which is subject of

² LPA Ref: PP/21/04260

the notice. Furthermore, the screen is shown in approximately the same position as the timber screen subject to the notice. Condition 2 of the permission requires the development to be carried out in complete accordance with the details shown on those two plans. There is no condition which requires further details of boundary treatment on the terrace to be agreed or purports to omit the erection of the timber screen from the approved development. As a result, I consider the approved plans incorporate the erection of a timber screen on the roof terrace.

9. Overall, I conclude that the timber screen on the roof terrace subject of the notice is comprised in the planning permission granted in 2019 and subsequently varied in 2022 and 2023.
10. To that end, the alleged breach of planning control stated in the notice, does not constitute a breach of planning control in accordance with S171A(1) of the Act.
11. The enforcement notice will therefore be quashed.
12. In these circumstances, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act (as amended) do not fall to be considered.

J Whitfield

INSPECTOR