



Appeal Decision

Site visit made on 5 May 2026

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 June 2026

Appeal Ref: APP/G5180/C/24/3345291

Walnuts Cafe, 182 Petts Wood Road, Petts Wood, Orpington BR5 1LG

- 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 Altan Ramadan against an enforcement notice issued by the Council of the London Borough of Bromley.
- The notice was issued on 24 April 2024.
- The breach of planning control as alleged in the notice is *without the required planning permission, the erection of a single-storey extension at the rear and the installation of planters at the front*.
- The requirements of the notice are:
 - (a) *Remove from the land the single-storey extension at the rear*
 - (b) *Remove from the land the planters at the front*
 - (c) *Restore the land to its condition before the breach of planning control took place.*
- The period for compliance with the requirements is: *within 2 months after this notice takes effect*
- The appeal is proceeding on the grounds set out in section 174(2)(d), (f) and (g) of the 1990 Act (as amended).

Formal Decision

1. It is directed that the enforcement notice is corrected and varied by:

- the addition of the words “shown in the approximate position edged in blue on the attached plan EN1” and also the addition of the wording “shown in the approximate positions in green on the attached plan EN1” in Section 3 of the enforcement notice so that it reads as follows:

“Without the required planning permission, the erection of a single-storey extension at the rear shown in the approximate position edged in blue on the attached plan EN1 and the installation of planters at the front shown in the approximate positions in green on the attached plan EN1.”

- the addition of the words “shown in edged in blue on the attached plan EN1” at the end of Section 5(a) of the enforcement notice.
- the addition of the words “shown in green on the attached plan EN1” at the end of Section 5(b) of the enforcement notice.
- the substitution of the plan labelled EN1 and annexed to this decision for the plan attached to the enforcement notice.
- the deletion of 2 months and its substitution with 6 months as the time for compliance.

2. Subject to the corrections and variation, the appeal is dismissed and the enforcement notice is upheld.

The Enforcement Notice

3. The plan attached to the enforcement notice highlights the appeal site against which the alleged breach of planning control relates. The site is bounded by a red line. Given my findings, it would be prudent to identify to which parts of the appeal site my decision relates. I have amended the site plan (ref: EN1) to highlight the relevant single storey rear extensions in blue and the planters in green at the front of the site, for clarification purposes. I have informed the parties of my intentions. The amendments have not altered the area of the plan but merely seek to identify which parts of the appeal site the corrected notice relates, as such there has been no injustice to either party.

Preliminary Matter

4. The appellant has not lodged a ground (a) appeal, as such there is no deemed planning application. Much of the appellants statement of case refers to planning merits, including impact on character and appearance and the condition of the oak trees subject to a tree preservation order (TPO). Given that no ground (a) appeal has been sought, I cannot consider these matters as part of this appeal.

Background

5. From the information before me and following the site visit, it is apparent that whilst there is a large single storey extension at the rear of the premises, it has been constructed in separate stages. A single storey rear extension already existed at the site and is shown painted green in the appellants photos¹.
6. Planning permission² was granted in January 2016 for a further single storey rear extension attached to the existing rear 'green' extension. The appellants photos highlight this, as a metal framed structure that was clad in woodchip sheeting, attached to the 'green' extension. The scheme was designed around the three oak trees that were subject to the TPO. However, from the details before me works did not commence until 1 March 2020³, which is outside the three year time frame condition attached to the permission. As such the works were unauthorised.
7. Further construction works commenced in June 2021 to the rear of the adjoining property at no. 180 Petts Wood Road. These works consisted of a lean-to linked to the other extensions, to provide a larger seating area at the appeal site.

Appeal under ground (d)

8. An appeal on ground (d) is that, at the date on which the notice was issued, no enforcement action could be taken in respect of any breach of planning control that may be constituted by those matters. The test of the evidence is the balance of probability, and the onus of proof is with the appellants. If the Council has no evidence itself to contradict or otherwise make the appellant's version of events less than probable, an appeal on ground (d) can succeed, provided that the appellant's evidence alone is sufficiently precise and unambiguous.
9. The enforcement notice subject to this appeal was issued on 24 April 2024. However, this followed the service of a previous enforcement notice⁴ (the first

¹ Appellants Statement of Case – Appendix D

² London Borough of Bromley Planning Ref: DC/15/04844/FULL1

³ Section 5 of the planning application form Ref: 20/04001/FULL1

⁴ London Borough of Bromley Planning Ref: 20/00381/OPDEV

notice) on 31 January 2022. The first notice was appealed with the Planning Inspectorate⁵, however it was found that the attached plan was ambiguous and could not be corrected without injustice. The Council has subsequently utilised the 'second bite' provisions under section 171B(4)(b) of the 1990 Act (as amended).

10. Section 171B(4) protects the position of the Council by stopping the clock if a notice was issued but proves defective on a technicality, as in this case. Since the clock was stopped, it follows that the ground (d) appeal made in respect of a 'second bite' notice, (the subject of this appeal) must be determined on the basis as to whether the development was immune on the date of issue of the first notice, not the second enforcement notice. In other words, the appellant needs to demonstrate that the operational development involving the erection of a single-storey extension at the rear and the installation of planters at the front of the premises was substantially complete four years prior to the first notice. The relevant date therefore is 31 January 2018.
11. Whether operational development is substantially complete and how that is to be assessed was considered by the *Sage*⁶ judgement. In *Sage*, the House of Lords held when an application is made for planning permission for a single operation, it was made in respect of the whole of the operation. If a building operation is not carried out, both internally and externally, fully in accordance with the planning permission, the whole operation is unlawful. Whilst planning permission has not been granted here, the principle of a single operation of development remains key.
12. The appeal site draws parallels with the *Sage* judgement, in that permission has not been obtained. The House of Lords indicated that *"...regard should be had to the totality of the operations which the person originally contemplated and intended to carry out. That will be an easy task if the developer has applied for and obtained planning permission. It will be less easy where, as here, planning permission was not applied for at all. In such a case evidence as to what was intended may have to be gathered from various sources, having regard especially to the building's physical features and its design."*
13. From the information before me, as detailed in the background section above, works to the rear extension commenced in March 2020, therefore given the works had not commenced prior to 31 January 2018 these could not be considered as substantially complete. Even if, the works had commenced prior to this date the appellant's photographs show that neither the internal nor external works at the rear of the site had been completed.
14. In respect to the planters at the front of the site, I have been supplied with limited information on these. Nevertheless, these structures were in situ during my site visit. Given the lack of information supplied in respect of these structures and when they were constructed, I must adopt a precautionary approach. Consequently, on the balance of probability, it has not been demonstrated with sufficient precision and unambiguity that this operational development was substantially complete prior to 31 January 2018 either.
15. Subsequently, enforcement action could therefore be taken against all the matters constituted by the breach of planning control, and the appeal on ground (d) therefore fails.

⁵ PINS Ref: APP/G5180/C/22/3294273

⁶ *Sage v SSETR & Maidstone BC* [2003] UKHL 22

Appeal under ground (f)

16. An appeal on ground (f) is whether the requirement is excessive to achieve the purpose of the notice. When an appeal is made on ground (f), it is essential to understand the purpose of the notice. Section 173(4) of the 1990 Act (as amended) sets out the purposes which an enforcement notice may seek to achieve, either wholly or in part. These purposes are, in summary, a) the remedying of the breach of planning control by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or b) remedying any injury to amenity which has been caused by the breach.
17. The requirements of the corrected notice are clear, to remove the single storey extensions at the rear of the site and the planters to the front. Therefore, I am satisfied, that the purpose of the notice is to remedy the breach of planning control as set out under section 173(4)(a) of the 1990 Act (as amended).
18. The appellant has not appealed the enforcement notice under ground (a) in that planning permission should be granted for the development. As such, I cannot consider the planning merits of the case nor indeed whether the proposal would harm the visual character and appearance of the surrounding conservation area or the trees subject to the TPO, and thus I can only consider whether lesser steps would suffice to remedy the breach of planning control. No lesser steps have been advanced by the appellant. In the absence of details for an alternative proposal, I have no basis on which to consider whether another option is viable, as this could prejudice the parties.
19. Consequently, I find that the requirements of the corrected enforcement notice, as stipulated, would be appropriate to remedy the breach of planning control, and as such the requirements of the enforcement notice are not excessive. Given that no lesser steps have been identified that would achieve the aims of the notice, the appeal on ground (f) therefore fails.

Appeal under ground (g)

20. For an appeal on ground (g) to succeed, it is to be demonstrated that the period specified in the notice for compliance in accordance with section 173(9) of the 1990 Act (as amended) falls short of what should reasonably be allowed.
21. The appellant contends that a period between six and nine months is the minimum needed to undertake the requirements of the enforcement notice. The works to remove the planters would be within the capabilities of a competent person within the building trade and could be undertaken within two months of the date of this decision. However, the work to remove the rear extension would require more substantial works, given the protection to be afforded the trees subject to the TPO. The works would also impact on the cafe's viability.
22. In response to these concerns, I consider an increase of four months from two months for compliance, would give ample time for the appellant to make the arrangements and carry out the necessary works. Therefore, I will vary the notice accordingly.
23. To that extent, the appeal succeeds on ground (g).

Overall Conclusion

24. For the reasons given above, I conclude that the appeal should be dismissed, and the enforcement notice is upheld with corrections and a variation.

Robert Naylor

INSPECTOR

PLAN EN1

