



Appeal Decision

Site visit made on 17 December 2025

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th June 2026

Appeal Ref: APP/B4215/C/25/3368073

Land at 133 Beech Road, Manchester M21 9EQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Mahmut Tutan against an enforcement notice issued by Manchester City Council.
- The notice was issued on 2 June 2025.
- The breach of planning control as alleged in the notice is without planning permission, the erection of single-storey timber canopy structures.
- The requirements of the notice are to:
 1. Demolish the single-storey timber canopy structures in their entirety.
 2. Reinstate the area to the front of the premises to its original condition before the breach took place, as shown in the attached photograph ENF/02.
 3. Remove all building materials, rubble and waste arising from carrying out the above steps.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the ground set out in section 174(2)(d) of the Town and Country Planning Act 1990 (as amended).

Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Reasons

2. An appeal made on ground (d) is that at the date the enforcement notice was issued, no enforcement action could be taken in respect of any breach of planning control. S171B(1) of the Town and Country Planning Act 1990, as amended, (the 1990 Act) provides that where there has been a breach of planning control consisting in the carrying out without planning permission of building operations, no enforcement action may be taken after the end of the period of ten years beginning with the date on which the operations were 'substantially completed'.
3. However, in this case it is common ground that the breach of planning control occurred before 25 April 2024. Therefore, in accordance with the transitional arrangements¹, the time limit for immunity is four years rather than 10.
4. In an appeal against an enforcement notice on ground (d), the burden of proving relevant facts is on the appellant, and the relevant test of the evidence is on the balance of probability. If there is no evidence to contradict the appellant's version of events or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.
5. In order for the appeal to succeed on this ground, in accordance with the relevant time limit for immunity, it is necessary for the appellant to demonstrate, on the balance of probability, that the alleged canopy structures were substantially

¹ Section 5(b) of The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024

completed by 2 June 2021 (the “relevant date”), four years prior to the enforcement notice being issued.

6. A building cannot be regarded as *substantially complete*, for the purposes of gaining immunity from enforcement action, if there are outstanding works, even if they only affect the interior. Therefore, the appellant needs to show, on the balance of probabilities, that the building operations associated with the erection of the building, both internally and externally, provided a fully detailed building of a certain character.
7. The appeal relates to two single storey structures which project forward of the principal elevation of the building, and which are joined together by a smaller structure that forms part of the entrance to the main restaurant building. The structures comprise a mix of timber and aluminium framework and are enclosed by plastic sheeting to the roof, glazing to the upper part of its elevations, and solid walls to the lower parts of its elevations.
8. The appellant states that the structures were erected at the appeal site during October and November 2020 to provide additional covered floorspace as a response to social distancing rules imposed during the Covid 19 pandemic. Consequently, they claim that the structures were substantially completed in December 2020.
9. 11 letters² have been provided from customers who have visited the restaurant. These state that the structures “...*were complete with both roof and walls enclosed.*” Eight of these letters state that their visit was during December 2020 and three simply state ‘lockdown 2020’. However, these are not statutory declarations, and they contain limited information as to the physical state of the structures and the works that had been undertaken. The statements also adopt a standard set of wording, and some do not provide a specific date of the visit. Therefore, these accounts are not sufficiently precise to support the appellant’s case.
10. A letter³ is provided from the former restaurant manager, Mr Tunc, which states that “*both structures were complete, with both roof and walls enclosed with Perspex and timber, in time for Christmas 2020*”. Mr Tunc goes on to state that “*...the perspex coverings fixed to the timber walls, were often removed during periods of good weather...*”. However, in Mr Tunc’s sworn statement⁴ his account differs, because, in the latter, he states that the “*...right-hand structure was completed January 2021.*” No explanation is given for this contradiction.
11. Furthermore, beyond Mr Tunc’s initial account, there is very little evidence to suggest that the elevations of the structures were removable in any way. During my visit, I observed that the side elevations of the structure were fixed in place and did not appear to be removable.
12. A variety of photographic evidence has been submitted with the appeal, including stills taken from YouTube, images from Facebook, and images from both Google Street view and Google Earth.

² Appendices B to D of the Appellant’s Appeal Statement

³ Appendix A of the Appellant’s Appeal Statement

⁴ Appendix 1a of the Appellant’s Supplementary Statement, dated 2 October 2025

13. The Facebook image dated 31 October 2020 shows only part of the left-hand structure, and, when coupled with the November 2020 Google Street View, this shows a timber-framed structure with a flat roof and timber cladding to the lower part of its elevations. This differs significantly from the completed structure, which comprises a dual pitch roof, timber and grey aluminium framing, and a different finish to the lower parts of its elevations. Therefore, this evidence only serves to indicate that, at this stage, the structure was not substantially complete.
14. The image dated 2 January 2021 and the still taken from the YouTube clip dated 6 February 2021 show only part of the right-hand structure, and so it is not possible to ascertain whether the structure is substantially complete. Moreover, the Google Earth satellite images dated 30 March 2021, 22 April 2021, 24 April 2022, and 9 June 2023 show the structures in place from an aerial view, but these images give no indication as to their state of completion.
15. Several additional sworn statements have been provided from nearby neighbours in support of the appeal. While these statements all confirm that structures were in place to the front of the property, there is a lack of detail contained within these declarations to explain the physical state of the structures and the works that had been undertaken up to the relevant date, such that this evidence is not sufficiently precise to demonstrate that the structures had been substantially complete for the requisite four year period.
16. In their Supplementary Statement, the Appellant has provided further photographic evidence and Google Earth satellite imagery. However, the satellite imagery does not clearly depict the structures and so do not reveal their state of completion. The appellant's Google image, dated July 2021, shows the lack of enclosed side elevations to the left-hand structure, thereby indicating its lack of completion after the relevant date. Other supplementary images⁵ clearly depict the incomplete nature of the structures, with the absence of side elevations, both before and after the relevant date. Furthermore, the supplementary photographs dated at various points throughout 2022 are after the relevant date and only serve to highlight the difference with the incomplete structures depicted in photos from 2021.
17. The Local Planning Authority (LPA) has provided a Google Review image dated June 2021 which clearly shows that the side elevations of the structures had not yet been completed. This is supported by further photographic evidence from June 2021⁶ and August 2021⁷ showing that the side elevations were incomplete, and so the structures were open to the elements. It is of particular note that three of these images are after the relevant date. Therefore, the LPA has provided photographic evidence that contradicts the appellant's version of events, and which indicates that the structures had not been fully enclosed, and were therefore not substantially complete, by the relevant date.
18. Bringing all of these points together, on the balance of probabilities, the appellant's evidence is either not sufficiently precise and unambiguous, or it is contradicted by other evidence. Therefore, the appellant has not succeeded in demonstrating that the development was substantially completed four years prior to the date of the enforcement notice.

⁵ Supplementary Images 12, 13, 14, 15, 16, and 18 in Appendix B1 of the Appellant's Supplementary Statement

⁶ LPA Statement, Appendix A, Image 5, 6 and 7

⁷ LPA Statement, Appendix A, Image 8

19. Consequently, it was not too late for the LPA to take enforcement action, due to the time limits set out in section 171B of the 1990 Act. As such, the appeal on ground (d) must fail.

Conclusion

20. For the reasons given, I conclude that the appeal should not succeed. I shall therefore uphold the enforcement notice.

J M Tweddle

INSPECTOR