



Appeal Decision

Site visit made on 15 July 2026

by **Peter White BA(Hons) MA DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 July 2026

Appeal Ref: APP/X5990/C/25/3364587

Flat D, 214 Ashmore Road, London, W9 3DD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Kevin Glynn against an enforcement notice issued by City of Westminster Council.
- The notice was issued on 26 March 2025.
- The breach of planning control as alleged in the notice is: The Installation of railings, timber support base & timber decking affixed to the sloping roof of the second floor rear closet wing.
- The requirements of the notice are:
 - 1) Remove the railings, timber support base and timber decking affixed to the sloping roof of the second floor rear closet wing (outlined by red lines on Photograph A) and all associated fixtures and fittings;
 - 2) Repair any damage caused to the Property by the installation or removal of the Unauthorised Works, using materials to match the existing external fabric of the Property, and remove from the Property any resulting debris.
- The period for compliance with the requirements is: 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (c) 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 ("the DPA").

Summary of decision: The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

1. The appellant advises that his family are no longer resident at the property, and I have taken account of the comments of the parties in respect of that change.
2. The installation of railings, timber support base and timber decking together create a roof terrace or, in the words of the Notice an "external amenity space at an elevated position". The Council have used the term 'roof terrace' in their submissions and for brevity I have also done so, where the context allows.

The appeal on ground (c)

3. Appeals on ground (c) are made on the basis that the matters alleged in the Notice do not constitute a breach of planning control.
4. The works are building operations, and are not exempted from development, for the purposes of Section 55 of the Act. Planning permission was therefore required for them under Section 57 of the Act. Neither party have advised that a Lawful Development Certificate has been issued in relation to them, and no planning permission has been granted by the Council.
5. The appellant's case is that the works were 'permitted development' under Schedule 2, Part 1 Classes A, B and C of the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the GPDO").

6. However, Part 1 of the GPDO relates to development within the curtilage of a dwellinghouse, and the definition of a 'dwellinghouse' in Article 2 excludes a building containing one or more flats, or a flat contained within such a building.
7. 214 Ashmore Road is a building containing four flats and Flat D is a flat contained within it. Schedule 2, Part 1, Classes A, B and C therefore do not apply.
8. Schedule 2, Part 2, Class A of the GPDO relates to fences and other means of enclosure. But development is not permitted by that class if it exceeds 2 metres above ground level. The railings enclosing the roof terrace above the second storey of the closet wing clearly exceeds that height above ground level.
9. Planning permission was therefore not granted for the works by Article 3(1) of the GPDO. The matters alleged in the Notice therefore constituted a breach of planning control.
10. The appeal on ground (c) therefore fails.

The appeal on ground (a)

Main Issues

11. The main issues are the effect of the development on:

- The character and appearance of the area;
- The living conditions of neighbouring residents, with particular reference to privacy.

Character and appearance

12. Ashmore Road is characterised by traditional brick houses of buff brick with bay windows and brick and stone detailing. No 214 is one of the central buildings within a short terrace, of what was once four houses, close to the junction with Marban Road. The terrace is neither one unimpaired by roof extensions, nor one already characterised by roof additions or alteration. Flat D is a 2nd and 3rd floor maisonette.
13. There are a small number of existing roof terraces in the vicinity of No 214. Those opposite on Portnall Road are the most notable, and there is one at 1st floor level at No 214. The Council advise each of these were erected without planning permission but are now lawful due to the passage of time. There is also a very small 2nd floor terrace with planning permission at No 212. But the roof terrace before me is larger than each of these existing terraces.
14. The Notice describes the rear outrigger as a 'closet wing', and I will therefore use the same term. Prior to the works occurring, the closet wing roof was a 'flat' roof with a gentle fall to one side. The addition of a level platform and railings provides a useable external area accessed from the second floor of the main building, albeit accessible only via a low opening which was once a window.
15. Marban Road dissects the rows of terraces on Ashmore Road and Portnall Road, where the rear of the roofs and upper stories are visible in public view from a short stretch of the road. The railings and parts of objects on the terrace are visible in these views, but the black painted railings are 'porous' features, allowing views of the roofs and walls behind them, and the dark brown edges of the level platform is a relatively discreet feature.

16. More significant views will be available from private areas, and particularly those from the rear of residential buildings on Portnall Road. In these perspectives, the railings will be visible, and in some views on the skyline, along with any domestic paraphernalia placed on the terrace. Nevertheless, with their dark colours and filtered views of the buildings behind them, the platform and railings are relatively discreet features which do not harm the character and appearance of the area.
17. Overall, despite its location at roof level, the physical character of the terrace is of a design which is sympathetic to the architectural character of the existing building.
18. In conclusion, the development accords with WCP Policies 7, 38 and 40 which require development to be sensitively designed, protect and respond and contribute positively to local character and the surrounding townscape, and with the relevant parts of City of Westminster "Roofs: A guide to alterations and extension on domestic buildings" (2004).

Living conditions

19. Prior to the works, the sloping roof without enclosure was unlikely to have been used to any significant degree as a roof terrace or garden. The construction of a level platform and the installation of railings facilitated access to that area as a roof terrace, and this is clearly demonstrated with the introduction of outdoor furniture.
20. The open rooftop terrace above the second-floor closet wing introduces new visual relationships, both to and from the terrace. It provides panoramic views of the rear of the residential properties opposite, and to a significantly greater degree than those obtained from within the building. The depth of the roof terrace also means there are views back into the rear of the neighbouring buildings at very close proximity.
21. Although the short garden depths means there will inevitably be some intervisibility between the rear of properties, the extent of intrusive visibility will have increased significantly from the large roof terrace, and the significant number of net curtains, and degree of visibility from the terrace into rooms without them was notable at my site visit. Individually and cumulatively these views are harmful to the privacy of neighbouring residential occupiers.
22. The existing 2nd floor terrace on the main roof of the adjacent property is substantially smaller than that subject to the Notice. It is set back from the roof edge such that there are no views back into the neighbouring buildings on the terrace, it is sited adjacent to a mansard roof wall thereby substantially limiting views to the north, and it is of a size that would not accommodate groups of any significance. The terrace on the adjacent property is therefore different to that before me, and its effects on privacy will be more limited.
23. The second-floor roof terraces opposite are more comparable, but that relationship has become established over time. They are not sufficient justification for introducing similar effects on residents of Portnall Road and Ashmore Road where they did not exist at the time the works were carried out without planning permission.
24. Overall, the development harms the living conditions of neighbouring residents and conflicts with WCP Policies 7, 38 and 40 which require development to prevent

unacceptable privacy and overlooking impacts and ensure a good standard of amenity for new and existing occupiers.

Other matters

25. The development provides the occupiers with a large external area which improves their living conditions. That attracts some weight, which I have considered in the balance below.
26. The appellant also advises that he may return to the property at a future date and now has another young child but, as he is not resident, this matter attracts no material weight.

Conclusion on ground (a) / the DPA

27. Although I have not found harm to the character and appearance of the area, the development harms the living conditions of neighbouring occupiers and conflicts with development plan policies. Together this harm and the associated conflict with the development plan carries significant weight against the development. The private benefit to the occupiers of the flat carries only limited weight and does not outweigh the harm I have identified.
28. The appeal on ground (a) therefore fails.

Overall Conclusion

29. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Formal Decision

30. 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.

Peter White

INSPECTOR