

Appeal Decision

Site visit made on 17 July 2026

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 29 July 2026

Appeal ref: APP/C5690/C/24/3350448

Bestfood Supermarket, 30 Loampit Hill, London SE13 7SW

- The appeal is made by Mr Sritharan Ratnasabapathy under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991, (the Act), against an enforcement notice issued by the London Borough of Lewisham Council.
- The breach of planning control was: Without planning permission, the enlargement to the front of the property, (a front extension), in the approximate area marked A on the plan attached to the notice.
- The requirements of the notice are:
 - (1) Remove the enlargement to the front of the property (the front extension) located in the approximate area marked A on the attached plan, in its entirety; AND
 - (2) Make good all damage resulting from the compliance with the requirements of step (1); AND
 - (3) Remove all materials, debris, waste and equipment resulting from compliance with Steps (1) and (2) of this notice from the land.
- The period for compliance with the requirements is three months.
- The appeal was made on grounds (a), (b), (c), (d), (f) and (g) – s.174(2) of the Act.

Summary of decision: The appeal on ground (c) succeeds. The enforcement notice is quashed. The deemed planning application to retain the shop front does not fall to be considered.

Appeal property

1. The appeal concerns the Bestfood Supermarket at No. 30 Loampit Hill, Lewisham. The Appellant, Mr Sritharan Ratnasabapathy, sells a wide range of foods in his end of terrace shop on the corner of the junction with the northern connection of Elswick Road to Loampit Hill.
2. The enforcement notice acts against what the Council said was the reconstruction and extension of the shop front at No. 30, extending outwards from the front wall of the original 2 storey terrace on the north-eastern side of Loampit Hill. The 2 shop fronts immediately to the north-west, Nos. 32 and 34 have no ground floor protrusions from the façade of the original buildings. The next shop to the north-west, No. 36, has an extended ground floor projection of matched size and appearance to that of the appeal property. This property, No. 36, was the subject of an enforcement notice upheld on 12 November 2024 requiring removal of the front extension, (appeal made on ground (g) only). The No. 30 enforcement notice before me requires that the front extension of No. 30 be entirely removed. This possible punitive rather than a remedial nature of the requirements is not examined here, (*Carnwath LJ in Tapeacrown Ltd First Secretary of State* (2006 EWCA Civ 1744)).

Grounds of appeal

3. The appeal was made on grounds (a), (b), (c), (d), (f) and (g). It is logical to consider legal grounds of appeal first; that is grounds (b), (c), (d), in that order. Success on any of those 3 grounds would render the remaining grounds otiose.

The appeal on ground (b)

4. An appeal on ground (b) asserts that the matters alleged in the enforcement notice have not occurred.
5. Mr Sritharan Ratnasabapathy claimed there had been no material change to the shop front structure. The signboard had remained unchanged for decades. The only works carried out on the shop front had been those of maintenance, cleaning and painting.
6. The Council referred to a series of images showing the appeal property dated 2019, 2023 and 2024. The 10 July 2024 image shows what appeared to them to be a replacement ground floor front extension to the shop when compared with the 2 earlier images. They said new walling, glazing, rolling security shutters and substantial signs on the roof showed what looked like a new front extension to the Appellant's shop. It could not be said the works had not, as a matter of fact, occurred.
7. I agree with the Council's assessment that new works have been carried out to the appeal shop front, particularly evident when comparing the 10 July 2024 Google image shown in the Council representations with what I saw during my site inspection. The appeal on ground (b) cannot succeed in respect of the work carried out to the shop front at No. 30 Loampit Hill. Whether the work amounted to development that required planning permission is a matter for the ground (c) appeal, below. The appeal on ground (b) fails.

The appeal on ground (c)

8. The appeal on ground (c) is the contention that the matters described in the notice did not constitute a breach of planning permission. Mr Ratnasabapathy said the signboard's frame and structure had remained unchanged. Only routine maintenance had been carried. He said a combination of works had simply been repairs. They had not been development by virtue of section 55(2)(a) of the Town and Country Planning Act 1990. There had been no breach of planning control.
9. Section 55 of the Act headed Meaning of "development" and "new development" says (1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development" means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land. (1A) For the purposes of this Act "building operations" includes - a) demolition of buildings; (b) rebuilding; (c) structural alterations of or additions to buildings; and (d) other operations normally undertaken by a person carrying on business as a builder.
10. It was the Council's view, given the scale and amount of replacement of the earlier shop front extension that had taken place that Mr Ratnasabapathy had built a new shop front structure and advertisement sign. They were not merely works of repair. The shop front had been extended by alteration and enlargement. There was no comment on the possible lawfulness of the front extension as it was prior to the alleged rebuilding and extension.
11. Whilst I agree with the Council that changes had been made to the No. 30 shop front structure, a number of its elements can be closely compared with what can be seen on the earlier images. They also appear to be in the same position. The extent of the works of replacing individual elements of the original shop front may have been at the

limit of what could still be described as maintenance and improvement works, rather than rebuilding and extension work.

12. In the case of *Sainty v Minister of Housing and Local Government* and *CW Larkin v Basildon District Council*, Lord Parker CJ said: "In my judgment, it may well be that it is possible to arrive at what in effect is a new erection by stages, each stage of which can be said to be an improvement.". In *Arnold v Secretary of State for Communities and Local Government* [2015] EWHC 1197 (Admin), Mr Justice Dove said "I consider that the only logical conclusion to draw given the scale and amount of demolition that took place is that what has been built is a new dwelling and not one that has been repaired and extended by alteration and enlargement. Reaching any other conclusion based on the facts would be contrary and send out a message that it is possible to build a new dwelling of a fundamentally different design by employing an argument of staged removal and replacement.".
13. In the present instance, the Council's view on Mr Ratnasabapathy's shop front would seem to align with the above words of the Judges in *Sainty* and *Arnold*. It is a question of fact and degree over which different views can arise. It is my view in this instance that the work to the shop front whilst extensive, did not amount to works of replacement, rebuilding or material extension. The same structural elements, the green painted stanchions remain and although the Council thought otherwise, I did not see a larger footprint of the shop front extension, a feature that appears to have been in place since at least 2018 according to the referenced Google views.
14. A fine line, perhaps, but I consider it appropriate that the appeal on ground (c) succeeds. The remaining grounds of appeal, that is, (d), (a), (f) and (g) do not fall to be considered. The enforcement notice is quashed. The deemed application for planning permission is not considered. Nor are the merits or otherwise of the case for retaining the large advertisement hoarding sign "BEST FOOD SUPERMARKET" above the front extension to No. 30 before me to be considered.

FORMAL DECISION

15. The enforcement notice is quashed. The application deemed to have been made to retain the shop front extension is not considered.

John Whalley

INSPECTOR