



Appeal Decision

Site visit made on 18 August 2026

by Siobhan Watson BA(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 August 2026

Appeal Ref: APP/A5270/C/25/3376041

Tiramisu Cafe, 12 St. Marys Road, London, W5 5ES

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Vladimir Tollumi against an enforcement notice issued by the Council of the London Borough of Ealing.
 - The notice was issued on 17 November 2025.
 - The breach of planning control as alleged in the notice is: Without planning permission, construction of a timber pergola structure used for outdoor seating purposes in connection with the business occupying 12 St Mary's Road, Ealing, W5 SES.
 - The requirements of the notice are to: Remove the timber pergola structure from the land.
 - The period for compliance with the requirement is: One month.
 - The appeal is proceeding on the grounds set out in section 174(2)(c), (d), (f) of the Town and Country Planning Act 1990 (as amended).
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Decision

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

Preliminary Matters

2. The ground (a) appeal is not pursued as the fee has not been paid. This means that I cannot consider the planning merits of the case, such as character and appearance or economic matters.

Reasons

The Appeal on ground (c)

3. An appeal on ground(c) is that those matters (if they occurred) do not constitute a breach of planning control.
4. The appellant's case is that the works carried out were maintenance and refurbishment which he claims did not constitute "development" under s55(2)(a) of the Act.
5. The appellant has not detailed the works that he claims to be "maintenance and refurbishment". Furthermore, he has not even provided any meaningful information about the composition or appearance of the structure before it was "maintained and refurbished". Put simply, he has not provided a before and after comparison to substantiate his case.
6. The appeal on ground (c) must therefore fail.

The Appeal on ground (d)

7. An appeal under ground (d) is that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters. The relevant period is 10 years of substantial completion for a breach of planning control consisting of operational development where substantial completion took place on or after 25 April 2024 or four years if the development was substantially completed before 25 April 2024.
8. The immunity period must have occurred before the enforcement notice was served. This means that if the four-year period applies, the unauthorised structure must have been substantially completed by 17 November 2021. If the ten-year period applies, it must have been substantially completed by 17 November 2015. The onus of proof is on the appellant.
9. The appellant says that the pergola has existed in its current position for many years and more than four years. He has not provided any date or any substantive evidence of when it was substantially completed.
10. In contrast, the Council has provided Google Street View images from July 2012, August 2014, August 2015, May 2019, June 2021 and July 2024 which show that the structure did not exist at those times.
11. For the above reasons, and, on the balance of probability, the evidence does not precisely and unambiguously demonstrate that the pergola was substantially completed even four-years before the date of the notice, let alone 10 years. Therefore, I conclude that the ground (d) appeal fails.

The Appeal on ground (f)

12. For the appeal to succeed on this ground, I need to be satisfied that that the steps required to comply with the requirements of the notice are excessive and lesser steps could overcome the breach of planning control or, as the case may be, the injury to amenity.
13. The steps required by this enforcement notice are to remove the pergola structure from the land. The purpose of the notice, therefore, clearly comes under S173(4)(a) of the 1990 Act which is remedying the breach by restoring the land to its condition before the breach took place. The requirements are therefore not excessive.
14. The appeal fails on ground (f).

Conclusion

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

Siobhán Watson

INSPECTOR