



Appeal Decision

No site visit made

by **A Berry MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3rd September 2026

Appeal Ref: APP/W5780/C/25/3372641

948 Eastern Avenue, Ilford IG2 7JD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act").
- The appeal is made by Mr Abdul Tamin Miraj against an enforcement notice ("EN") issued by the Council of the London Borough of Redbridge.
- The EN was issued on 8 August 2025.
- The breach of planning control as alleged in the EN is: The unauthorised change of use as shisha bar and construction of a single storey rear extension.
- The requirements of the EN are to:
 - (I) Cease the unauthorised use for shisha smoking; and
 - (II) Remove the unauthorised rear extension in its (sic) entirety; and
 - (III) Remove all debris from site.
- The period for compliance with the requirements is: 4 months.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the 1990 Act.

Decision

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

- *the deletion of the words "The unauthorised change of use as..." and their substitution with the words "The unauthorised material change of use as a..." in section 3;*
- *the deletion of the words in section 5:*
 - (I) *Cease the unauthorised use for shisha smoking; and*
 - (II) *Remove the unauthorised rear extension in its (sic) entirety; and*
 - (III) *Remove all debris from site.*

And their substitution with the words:

- (I) *Cease the unauthorised use as a shisha bar; and*
- (II) *Remove the unauthorised single storey rear extension; and*
- (III) *Remove all debris arising from (II) from the site.*

2. Subject to the correction and variations, the appeal is dismissed and the EN is upheld.

Matters Concerning the Notice

3. The breach of planning control as alleged in the EN is "*The unauthorised change of use as...*". For a change of use to amount to development there must be a material change in the character of the use that the land is being put to. Therefore, section 3 of the EN must be corrected so that the allegation comprises, "*The unauthorised material change of use as a...*" (my emphasis). The Council's case is

based on the allegation amounting to development and the appellant has not disputed this. Consequently, no injustice would arise from this correction.

4. The EN's requirements seek the cessation of the "*unauthorised use for shisha smoking*" where-as the alleged breach of planning control describes the use as a "*shisha bar*". Additionally, the requirements seek the removal of a "*rear extension*" where-as the alleged breach of planning control describes the operational development as a "*single storey rear extension*". It is necessary for the requirements and the alleged breach to align and therefore, I have varied the wording of the EN's requirements accordingly. As these variations are for precision, I am satisfied that no injustice would be caused to the appeal parties.
5. There is a spelling mistake in step (II) of the requirements. However, as it is not necessary for step (II) to require the removal of the extension "*in its entirety*", I have deleted this phrase rather than correct the spelling. Step (III) of the EN's requirements states "*Remove all debris from site*". To make this step specific to the development that is being enforced against, I must vary it to read "*Remove all debris arising from (II) from the site*". As these variations are for precision, I am satisfied that they do not cause injustice to the appeal parties.

Preliminary Matters

6. The appellant originally appealed the EN under grounds (a), (f) and (g). However, planning permission¹ was refused on 20 June 2025 to retain the development as described in the breach. The EN was issued on 8 August 2025 and therefore, it follows that ground (a) is barred under s174(2A) of the 1990 Act. I have therefore determined the appeal on grounds (f) and (g).
7. The planning merits of the development are not relevant to an appeal under grounds (f) and (g). As such, a site visit would not help me reach a decision. Consequently, I advised the main appeal parties of my intention to determine the appeal without a site visit.

Appeal on Ground (f)

8. An appeal under ground (f) is that the steps required by the EN to be taken, or the activities required by the EN to cease, exceed what is necessary to remedy the breach of planning control or any injury to amenity.
9. The steps (as varied) require the shisha bar to cease, the single storey rear extension to be removed, and all debris arising from the demolition of the single storey rear extension to be taken from the site. The purpose of the EN is therefore to remedy the breach of planning control.
10. The appellant states that the requirement to demolish the single storey rear extension is excessive as the extension is ancillary to the shop. They also assert that they intend to submit a planning application to retain the existing use as a restaurant with ancillary seating.
11. However, the material change of use to a shisha bar and the erection of the single storey rear extension are unauthorised. Therefore, any steps lesser than the cessation of the use and the demolition of the extension would not remedy the breach of planning control. Therefore, the EN's requirements are not excessive.

¹ Planning Ref 0794/25

12. The appellant has also raised concerns regarding the Council's handling of a previously refused planning application and a lack of engagement. However, these are not matters that can be considered under a ground (f) appeal.
13. For these reasons, the appeal on ground (f) fails.

Appeal on Ground (g)

14. An appeal under ground (g) is that the period specified for compliance within the EN falls short of what should reasonably be allowed.
15. The period for compliance is 4 months. The appellant states that 4 months is insufficient to source a reputable builder, to undertake the demolition works, and to seek suitable alternative premises. Therefore, they request a period of 6-9 months.
16. It is necessary for me to consider the time that has elapsed when deciding what period of compliance is reasonable. The appellant has known since 8 September 2025 that their ground (a) appeal was barred and their appeal would be proceeding only under grounds (f) and (g). The appellant has therefore had almost 12 months to find alternative accommodation and to secure a reputable builder. To afford the appellant a further 6-9 months from the determination of this appeal would be a considerable time for the harm identified in the EN to persist.
17. Accordingly, I find that the 4 month compliance period afforded by the EN is proportionate in the circumstances and does not fall short of what is reasonable. The appeal under ground (g) therefore fails.

Conclusion

18. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the EN with a correction and variations.

A Berry

INSPECTOR