



Appeal Decision

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2025

Appeal Ref: APP/W4705/C/24/3347472

489-491 Little Horton Lane, Bradford BD5 9BY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Ali Zawad against an enforcement notice issued by City of Bradford Metropolitan District Council.
 - The notice was issued on 23 May 2024.
 - The breach of planning control as alleged in the notice are:
“i) Without planning permission, the erection of a canopy structure attached to the front elevation of the building on the Land, as shown in the attached photographs; and ii) Without planning permission, the erection of a structure to the rear of the building on the Land, as shown in the attached photographs.”
 - The requirements of the notice are:
 - i) *Demolish the unauthorised canopy structure to the front of the building on the land;*
 - ii) *Demolish the unauthorised structure to the rear of the building on the land;*
 - iii) *Remove all arising materials from the land.*
 - The period for compliance with the requirement is: *“Two calendar months”*
 - The appeal is proceeding on the ground set out in section 174(2)(e) 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 appellant has drawn my attention to a planning permission¹ that has been recently granted at the premises to replace the existing open shop canopy with a single storey front extension and to also demolish and replace the existing timber single storey rear extension.
3. S180(1) of the Town and Country Planning Act 1990 as amended (the 1990 Act) provides that where planning permission is granted after the service of an enforcement notice for any development already carried out, the enforcement notice shall cease to have effect insofar as it is inconsistent with the planning permission. This means that the development approved in 24/02706/FUL overrides the enforcement notice to the extent that the planning permission authorises what is being enforced against. However, in this case the enforcement notice is not quashed and will remain on the Council's statutory register until the authority removes it.

Appeal on ground (e)

4. An appeal on this ground relates to whether the notice was served as required by s172 of the 1990 Act. S172(2) of the 1990 Act requires a copy of the notice to be served on the owner, occupier and any person having an interest in the land.

¹ City of Bradford Metropolitan District Council Planning Ref: 24/02706/FUL

5. S174(6) defines “relevant occupier” as a person who (a) on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence; and (b) continues so to occupy the land when the appeal is brought. A person may be an occupier because of a lease, a licence or oral permission. An interest in the land highlights a legal or equitable interest, such as a mortgage or the benefit of a covenant.
6. The appellant highlights that they signed a commercial lease agreement dated 1st April 2024 for the premises at the land in question, which is prior to the enforcement notice being issued. Therefore, as a tenant the appellant would be considered an occupier of the premises and should have been served a copy of the enforcement notice.
7. While the powers are discretionary, Local Planning Authorities (LPA) are advised to issue a requisition for information under s330 of the 1990 Act prior to the service of an enforcement notice, to discover who the relevant owners, occupiers and persons with an interest in the land are, and thus are entitled to appeal. The LPA state that prior to the issue of the enforcement notice, the Council’s legal services team sent out the requisite s330 notices to the persons identified as the co-owners from a HM Land Registry² search and the current occupiers of the premises. The search did not identify the appellant as an occupier.
8. Nevertheless, the issuing of the s330 notices requires the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises to give in writing any information in regard to the nature of the interest in the premises of the person on whom the notice is served; and the name and postal address of any other person known to them as having an interest in the premises, amongst other things.
9. From the information before me, the responses received from the s330 notices failed to identify the appellant. Consequently, following reasonable inquiries by the LPA in accordance with s329(2) of the 1990 Act, I am satisfied that the enforcement notice was served on all persons as having an interest in premises at that time.
10. Even if the notice had not been correctly served, s176(5) of the 1990 Act provides that failure to serve may be disregarded if the appellant has not been substantially prejudiced by the failure to serve them. In this case the appellant has been able to submit an appeal against the enforcement notice and had the opportunity to argue it fully in the course of these appeal proceedings. Moreover, this obviously prompted the submission of the application for planning permission, which was subsequently approved, thereby negating the notice’s requirements. It cannot, therefore, be said that they have suffered any prejudice as a result of any failure to comply with the rules concerning service. There is no suggestion that any other person may have been prejudiced.
11. I conclude, therefore, that in the circumstances of this case any failure by the Council in terms of service of the enforcement notice may be disregarded.
12. Consequently, the appeal on ground (e) fails.

² Title number WYK843653

Conclusion

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

Robert Naylor

INSPECTOR