



Appeal Decision

Site visit made on 7 March 2025

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 MARCH 2025

Appeal Ref: APP/N4205/C/24/3341954

Travis Perkins Trading Co Ltd, Bark Street, Bolton, BL1 2BB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by TP Property Company Ltd against an enforcement notice issued by Bolton Metropolitan Borough Council.
 - The notice was issued on 4 March 2024.
 - The breach of planning control as alleged in the notice is Without planning permission, the erection of a building.
 - The requirements of the notice are to (i) demolish the building, and (ii) remove from the site all building materials and rubble arising from compliance with requirement (i) above.
 - The period for compliance with the requirements is 90 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) 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.
-

Decision

1. It is directed that the enforcement notice is varied by the deletion of the words "*90 days after this Notice takes effect*" in section 6, and their substitution with the words "*Six months after this Notice takes effect*". Subject to the variation, 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.

Preliminary Matters

2. The National Planning Policy Framework was revised in December 2024 (the 2024 Framework) and was subsequently amended on 7 February 2025 to correct cross-references from footnotes 7 and 8 and amend the end of the first sentence of paragraph 155 to make its intent clear. The 2024 Framework replaces the previous version of the National Planning Policy Framework published in December 2023. In relative terms, the 2024 Framework does not have a material bearing on how the deemed planning application main issue should be considered.
3. A new development plan for the area referred to as 'Places for Everyone Joint Development Plan Document for Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Tameside and Wigan 2022-2039' (PfE) was adopted in March 2024. The enforcement notice, dated 4 March 2024, does not refer to PfE. I have been provided with a copy of policy JP-P1 of PfE and have taken it into account in so far that it is relevant to the deemed planning application main issue.

Ground (a) appeal and the deemed planning application

Main Issue

4. An appeal is made under ground (a) which is that planning permission ought to be granted in respect of the breach of planning control alleged in the notice. I have considered the reasons for issuing the notice and the main issue is whether the development constitutes good design and its effect on the character and appearance of the area. I have considered the deemed planning application based on either a permanent or temporary planning permission. In respect of the latter, the appellant has referred to planning permission being granted for five years.

Reasons

5. The appeal site falls within a mixed commercial and residential area. It is close to Bolton Town Centre and is used by Travis Perkins as a builder's depot. The unauthorised pitched roof building is used for storage purposes. It has light grey clad elevations (i.e., Goosewing grey colour) and is about twenty metres in length, fifteen metres in width and has a height of about nine metres to its ridge.
6. As part of my site visit, I was able to experience that most of the buildings in the locality were built from coursed brick. This includes buildings on the appeal site and also those which flank the unauthorised building. Some of the surrounding buildings are very traditional in appearance. There are some more contemporary buildings in the wider area, including new build dwellinghouses and apartments. These include the use of some, albeit limited, contrasting materials to brick. It is noteworthy that the Howdens building on Bark Street includes some brown cladding to part of the upper section of wall/roof and alongside its otherwise mainly brick built elevations.
7. Overall, the use of brick remains the predominant building material in the locality. This is also seen in terms of the boundary walls including those on Chorley Street. I find that the use of mainly brick, and the muted tones for the colour of the elevations and roof of the buildings in the area, adds positively and distinctively to its overall character and appearance.
8. In the context of the above, the unauthorised building is appreciated by passers-by as being in stark contrast to the brick-built buildings that surround it. The cladding is very bright in colour and hence has a jarring impact when experienced from the surrounding streets. This harm is also experienced in terms of the brightly coloured roof.
9. I do not find that the use of extensive metal cladding assimilates well with the coursed brickwork that predominates in the locality. I acknowledge that the building is set back from the road frontage with Bark Street and so is only noticeable from localised viewpoints in this road. Nonetheless, it still appears as an incongruous addition when seen by passers-by in this street: its large size draws attention to its out of keeping building material and colour. The most harmful impact is experienced when one is in Chorley Street and including land close to the junction with St Helena Road. From these viewpoints, the building sits on elevated land and the rear and side elevations are seen as unacceptably bright and out of character. Indeed, the building is seen in harmful contrast to the surrounding buildings which have mainly coursed brick and are articulated with some window openings.

10. The breach of planning control unacceptably departs from the other buildings in the locality which have muted tones. It does not marry well with the traditional and more modern brick-built buildings which surround it. Moreover, no attempt has been made to soften the impact of the appeal development with any landscaping. No such landscaping proposals are before me.
11. The above harm is exacerbated because unlike other buildings in the area, the building has very few openings within its elevations (particularly the rear and side). Therefore, the elevations have a very bland or uninteresting appearance when experienced in this urban landscape. Moreover, the cladding, which has a ribbed effect, is seen in direct contrast to the use of flatter and smoother brick which is a predominant characteristic of the locality.
12. The appellant has suggested that it would be possible to impose a condition which required the building to be finished in differently coloured cladding (i.e., a darker colour). I do not find that I can impose such a condition as to do so would amount to the erection of a different building, i.e. effectively the erection of new walls and a roof. In any event, while such a proposal would seek to make the building assimilate better when experienced by passers-by from a colour point of view, this would not overcome the fact that the use of extensive cladding, as distinct from predominantly brick, would not represent good design when the surrounding visual context is considered. In other words, this would not be sufficient on its own to overcome the harm that I have identified. This harm also includes a very bland design when the building is experienced from parts of Chorley Street.
13. The Council acknowledges that the site is not located within an identified 'gateway' town centre location. It is, however, located between two town centre gateway locations. I do not find that this is a determinative matter in this case. While there does now appear to be common ground about this matter amongst the main parties, whether the site is or is not within a gateway town centre location does not obviate the need for all developments to achieve good design.
14. I have considered whether it would be possible to impose a condition which required the use of predominantly brick for the elevations of the building, some alterations to the design of the elevations in terms of breaking up the massing of the most prominent elevations, the possible use of a darker colour for the roof, and the provision of some landscaping. However, on the evidence that is before me, I do not know if the frame of the building would be capable of taking the loading of brick and, in any event, the extent of such changes would, in my judgement, and, as a matter of fact and degree, amount to the erection of a different and new building which did not reflect the breach of planning control. In this regard, the imposition of a condition would not be appropriate. I return to this issue again as part of the assessment of the ground (g) appeal.
15. For the reasons outlined above, I find that the development has caused very significant harm to the character and appearance of the area, and it constitutes poor design. Therefore, the breach of planning control does not accord with the design, character and appearance requirements of policy CG3 of Bolton's Core Strategy Development Plan Document 2011 (CS), policy JP-P1 of PfE, and chapter 12 of the 2024 Framework. I do not find that policy TC11 of the CS is directly relevant as it relates to Bolton Town Centre and its gateways. The site is not within Bolton Town Centre or an identified gateway.

Other Considerations

16. The appellant states that the building is required following the demolition of the warehouse (i.e., brick built and with a slate roof) that was on the site previously and that it is essential for the viability of the business and to support construction activity in the area. In this regard, the appellant states that weight should be afforded to paragraph 85 of the 2024 Framework.
17. I recognise the business need for the building on the site and do not doubt that without it there would likely be adverse consequences in terms of supporting construction activity in the area. However, this must be weighed against the very significant harm that has been caused to the character and appearance of the area. Moreover, and, as detailed below, the appellant could consider submitting a new, albeit different, planning application for a building on the site. If approved, this would likely ensure that the viability of the business was preserved and that the building continued to support construction activity in the area.

Planning Balance and Conclusion

18. I conclude that the development has caused very significant harm to the character and appearance of the area, and that it does not constitute good design. Such harm is not outweighed by the other considerations outlined above. Therefore, permanent planning permission is not justified.
19. While the harm caused to the character and appearance of the area would be less arising from the grant of temporary planning permission (i.e., the appellant's requested five years), as distinct from permanent planning permission, the extent of the harm caused from the building being in situ for five years would still be significant. It would not be outweighed by the identified other considerations. This is in the context that the evidence indicates that it may be possible for the appellant to submit a further planning application to the local planning authority (LPA), relating to a differently designed storage building on the site, and with the possibility planning permission being approved by the LPA.
20. I conclude that neither permanent nor temporary planning permission is justified for the breach of planning control. In either case, the breach of planning control does not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. In this case, I do not find that there are any conditions that could be imposed to alter or outweigh this conclusion. Therefore, the ground (a) appeal fails.

Ground (f) appeal

21. An appeal made under ground (f) is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control or to remedy any injury to amenity which has been caused by any such a breach.
22. The appellant states that the requirement to remove the building is excessive and that instead a condition could be imposed to make the colour of the building more acceptable. I have considered this matter as part of my assessment of the deemed planning application on ground (a) of section 174(2) of the Act. For the reasons outlined, I find that the imposition of a condition would result in the erection of a

new or fundamentally differently building which did not reflect the breach of planning control. Moreover, and, in any event, I do not know if the frame of the building would be capable of taking the loading of brick to its elevations. I deal with this matter further as part of the assessment of the ground (g) appeal below.

23. The purpose of the notice is to remedy the breach of planning control. In this regard, and, given my ground (a) appeal reasoning, I do not find that the requirements of the notice are excessive. Therefore, the ground (f) appeal fails.

Ground (g) appeal

24. An appeal made on ground (g) is that the period specified in the notice in accordance with section 173(9) of the 1990 Act (as amended) falls short of what should reasonably be allowed.
25. The appellant considers that the compliance period of ninety days is too short and request six months. This is because existing stock orders must be fulfilled and as it is claimed that it would be unsustainable to relocate stock to an alternative location, only to then have to relocate it back to the appeal site to satisfy customer orders. While the relocation of stock to another site would likely result in some inconvenience for the business, there is no suggestion that this would not be feasible or possible. In this regard, there is no evidence to indicate that existing stock orders would not still be capable of being fulfilled based on a compliance period of ninety days.
26. Notwithstanding the above, it may be possible for the appellant to submit a planning application for a newly designed building, including the predominant use of brick for the elevations and a darker coloured roof. I do not know if such an option would be capable of resulting in the retention of part of the appeal building (i.e., the frame and foundations of the building). I find that it is reasonable and proportionate that I afford the appellant the opportunity to submit a new and different planning application to the LPA should that so be desired. The LPA does not appear to be resistant to such a proposal in principle. Indeed, amendments were requested in this regard (to include also landscaping proposals) prior to the LPA refusing planning permission¹ for the appeal development.
27. I shall therefore vary the compliance period from ninety days to six months. In doing so, this will also have the effect of potentially seeking to minimise disruption or inconvenience caused to the running of the business. To this extent, the ground (g) appeal succeeds.

Conclusion

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

D Hartley

INSPECTOR

¹ Planning application ref 15976/23