



Appeal Decision

Site visit made on 3 June 2025

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th June 2025

Appeal Ref: APP/D2320/C/24/3353067

Land lying to the north of Trafalgar Street, Chorley, PR7 1HE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Russell Morris against an enforcement notice issued by Chorley Borough Council.
 - The notice was issued on 12 August 2024.
 - The breach of planning control as alleged in the notice is: without planning permission, the erection of a shipping container constitutes an unauthorised development.
 - The requirements of the notice are to remove the unauthorised shipping container from the site.
 - The period for compliance with the requirements is 28 days.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (c) 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.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The appeal on ground (c)

2. In order to succeed on an appeal on ground (c), the appellant must show on the balance of probability that the matters alleged in the notice do not constitute a breach of planning control.
3. The alleged breach of planning control is a shipping container erected on land to the rear of Trafalgar Street. Although at the time of my visit the container had been removed from the site, the test is whether there had been a breach at the date when the notice was issued.
4. The definition of development in Section 55 of the Act includes the carrying out of building operations on land. A building is defined by Section 336(1) of the Act as any structure or erection. The limited details provided indicate that the container represents a building operation taking into account its size and degree of permanence, even though it has now been removed, and the appellant has not disputed that it constitutes operational development.
5. The appellant's ground (c) appeal has been made on the basis that the container is permitted development required temporarily in connection with operations being carried out on the land. The operations in question are the erection of a new apartment block, for which planning permission was granted in December 2020¹.

¹ Council ref. 20/00923/FUL

6. Schedule 2, Part 4, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits the provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land. Development is not permitted if those operations require planning permission, but it has not been granted.
7. The dispute is over whether the planning permission was implemented prior to its expiry date in December 2023. If not, then it could not be said that the container is required in connection with operations being carried out on the land that benefit from planning permission.
8. Section 56(2) of the Act states development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out. Section 56(4) defines 'material operation' as (a) any work of construction in the course of the erection of a building; (b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building; (c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph (b).
9. The appellant has provided details indicating drainage works which were subsequently inspected by Building Control in November 2023. It is implied that these demonstrate that the planning permission was implemented. However, no substantive details of the drainage works undertaken have been provided. Some photographs have been submitted which appear to show drainage works but it is unclear where these are in relation to the site or whether they are associated with the planning permission. The Building Control inspection details do not adequately clarify matters or demonstrate that the planning permission has been implemented.
10. Therefore, based on the evidence before me, I cannot be sure that the works said to have been undertaken in connection with the planning permission constitute a 'material operation' for the purposes of Section 56 of the Act. On that basis, it has not been demonstrated that the container is required in connection with operations on the land that benefit from planning permission and it is not therefore permitted under Part 4, Class A of the GPDO.
11. For these reasons I conclude that, notwithstanding its removal, it has not been shown on the balance of probability that the shipping container was not a breach of planning control on the date when the notice was issued. Therefore, the appeal on ground (c) must fail.

The appeal on ground (a) and deemed planning application

Main Issue

12. The main issue in the ground (a) appeal is the effect of the development on the character and appearance of the area.

Reasons

13. The appeal site is part of a raised area of land to the rear of Trafalgar Street, adjacent to Preston Street and a roundabout that provides links into and out of Chorley Town Centre. To the south east of the site, there is a digital advertisement on the land, which is otherwise open but somewhat overgrown and unkempt. The surrounding area is of mixed character, with traditional terraced houses on Trafalgar

Street and the streets beyond that to the south, and large commercial premises and car parks to the north and east.

14. I have not been provided with substantive details of the design and appearance of the container. However, it is likely to have been of utilitarian and industrial design that would contrast negatively with the surrounding area, particularly in the context of the traditional form and design of the adjacent terraced houses on Trafalgar Street. According to the Council it was also in a state of disrepair which contributed to a poor quality appearance, and this has not been disputed by the appellant. The site occupies a highly prominent position with clear views from Preston Street and the busy roundabout, with little in the way of screening.
15. The appellant has not advanced any substantive reasons to support the development on ground (a) and there does not appear to be any justification for it given my findings under ground (c) that it is not required in connection with an extant planning permission.
16. Therefore, I can only conclude that the development is harmful to the character and appearance of the area in conflict with Policy BNE1 of the Local Plan², which, amongst other things, seeks to ensure that development does not have a significantly detrimental impact on the surrounding area by virtue of its siting, layout, height, scale and massing, design, orientation and use of materials.
17. The development conflicts with the development plan as a whole, and there are no other considerations to indicate that I should take a different decision other than in accordance with this.
18. For the above reasons, the appeal fails on ground (a) and planning permission will not be granted.

Conclusion

19. I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

M Ollerenshaw

INSPECTOR

² Chorley Local Plan 2012-2026, Site Allocations and Development Management Policies, Development Plan Document (adopted July 2015)