



Appeal Decision

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 13 August 2025

Appeal Ref: APP/W4223/C/24/3356429

Land at West End House, West End Street, Oldham OL9 6DW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mrs Shelly Rahman against an enforcement notice issued by Oldham Metropolitan Borough Council.
 - The notice was issued on 24 October 2024.
 - The breach of planning control as alleged in the notice is described as: The unauthorised change of use of the land from café banqueting hall to a mixed use of café and banqueting hall and land used for storage purposes, involving the erection of 15 metal shipping containers on the land shown edged in blue on the plan. The development was refused retrospective planning permission (FUL/348539/22) by the Council on 19 October 2022 and an appeal against that refusal was dismissed by the Planning Inspectorate on 27 July 2023 (APP/W4233/W/22/3313476).
 - The requirements of the notice are to permanently cease the use of the Land for storage purposes and permanently remove the 15 metal shipping containers from the Land.
 - The period for compliance with the requirement is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (f), (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - the insertion of the word "material" after the word "unauthorised" in paragraph 3; and
 - the deletion of the word "three" and its substitution with the word "six" in paragraph 6.
2. Subject to the correction and variation, the appeal is dismissed and the enforcement notice is upheld.

Procedural Matter

3. Considering the matters at appeal it was not necessary to carry out a site visit and I have made my decision based on the written evidence submitted during the appeal process.

Enforcement Notice

4. The meaning of development in section 55 of the Town and Country Planning Act, 1990 (the Act) as amended, includes "the making of a material change in the use of any buildings or other land". I will correct the alleged breach of planning control by inserting the word 'material'. Such an amendment to the description will not cause any injustice because it is clear from the evidence of both parties that they understood the notice was directed at such a breach.

Appeal on ground (f)

5. The issue is whether the requirements of the notice are excessive to achieve the purpose(s) of the enforcement notice. Section 173(4) of the Act indicates that there are two purposes which the requirements of an enforcement notice can seek to address. The first is to remedy the breach of planning control that has occurred and the second to remedy any injury to amenity which has been caused by the breach. In this case the purpose behind the notice is to remedy the breach of planning control.
6. The appellant advises that following the dismissal of their July 2023 appeal¹, which was regarding the unauthorised development now the subject of this enforcement notice, she submitted a further application for planning permission to the Council to retain the development. In that application it was proposed to use timber cladding to encase the containers and finish in a suitable colour. It is understood that the Council, having regard to the provisions of Section 70A of the Act, declined to determine the application. The decision of the Council on that matter is not for my consideration in this appeal.
7. The appellant believes that her proposal to clad the containers should be considered as lesser steps than the requirements set out in the enforcement notice. However, in the absence of an appeal on ground (a), general planning considerations cannot be considered when determining an appeal on ground (f), and the notice cannot be varied to attack its substance. In addition, it can be seen from the previous Inspector's decision that she did not consider that painting the containers would overcome the harm she had identified by reason of the unauthorised development's overall footprint, bulk and massing. There are therefore no lesser steps available which would achieve the statutory purpose behind the notice.
8. The appeal on ground (f) fails.

Appeal on ground (g)

9. The issue is whether the compliance period is reasonable. The appellant considers that a period of nine months would be a more reasonable timescale having regard to the need to remove 15 containers, each requiring specialist lifting equipment and transportation, including finding a new place for them to be stored. In addition, each container is full of contents which will need to be re-stored.
10. The notice requires the use to cease and the containers to be removed from the land within three months. Whilst I recognise that this is sufficient time to cease the use and facilitate the removal of this development, I agree that a period of three months is unlikely to be sufficient to find new premises and relocate all the containers and goods stored within them. The conclusion that I have reached is that a period of six months would be a more reasonable period for compliance, given the nature of the development and circumstances of the case. To this extent the appeal on ground (g) succeeds.

¹ APP/W4223/W/22/3313476

Overall Conclusion

11. For the reasons given above I conclude that the period for compliance falls short of what is reasonable. I shall vary the notice prior to upholding it. The appeal succeeds to that extent.

Elizabeth Pleasant

INSPECTOR