



Appeal Decision

Site visit made on 9 September 2025

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

an Inspector appointed by the Secretary of State

Decision date: 15 SEPTEMBER 2025

Appeal Ref: APP/U4230/C/25/3361476

676B Bolton Road, Pendlebury, Swinton, Manchester, M27 8FH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Anthony Sykes of Homes for Hire Limited against an enforcement notice issued by Salford City Council.
 - The notice was issued on 29 January 2025.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey rear extension for use as a private residential dwelling.
 - The requirements of the notice are to 1. Permanently cease the use of the premise as a residential dwelling, and, 2. Permanently remove from the premises all manifestations of the residential use, to include: i) fitted shower room (comprising shower tray and cubicle, shower, fixtures and fittings); ii) fitted kitchen (comprising oven, hob, extraction hood, fitted kitchen cupboards, sink, fridge/freezer, fixtures and fittings).
 - The period for compliance with the requirement is six months from the date the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (e) and (f) 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, 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.

Procedural Matter

2. It was evident on my site visit that the appeal building was not currently in use as a dwellinghouse.

Ground (e) appeal

3. An appeal on ground (e) is made on the basis that copies of the notice were not properly served on everyone with an interest in the land as required by section 172 of the Act. Section 172(2) of the Act provides that a copy of an enforcement notice shall be served on the owner and occupier of the land to which it relates, and any other person having an interest in the land, including mortgagees, tenants, and sub-tenants, being an interest which, in the opinion of the local planning authority, is materially affected.
4. The appellant asserts that the owner of the appeal building (i.e., the appellant) was not properly served with a copy of the notice. The evidence is that following land registry checks, the Council served a copy of the notice on Homes for Hire Limited of which the appellant is one of the Directors. It was sent in a pre-paid registered envelope using the Royal Mail Tracking Service.

5. I am satisfied that the evidence indicates that a copy of the notice was served on all those with an interest in the land in accordance with section 172(2) of the Act and including the appellant. It is of course the case that the appellant has lodged an appeal. Therefore, it cannot, in any event, be claimed that the appellant has suffered any prejudice from the point of view of serving the notice. He is clearly aware of the notice and indeed an appeal has been lodged by him, albeit in his capacity as a Director of Homes for Hire Limited.
6. For the above reasons, I conclude that the ground (e) appeal fails.

Ground (b) appeal

7. An appeal made on ground (b) is that the matters comprising the alleged breach of planning control have not occurred. The onus is on the appellant to make a case on the legal grounds of appeal.
8. The appellant makes the claim that the breach of planning control has not occurred as the development was approved as part of application 21/32300/IN. The latter is a Building Regulations Initial Notice, and, in any event, this is a matter that would be relevant to a ground (c) appeal.
9. The evidence is that when the notice was issued, the building was in use as a dwelling. I reach this finding based on the Council's site visit findings in late November 2024, and the fact that a Council Tax letter was sent to the named occupier of No. 676B Bolton Road on 12 March 2025. It is also noteworthy that a planning application was submitted to retain the breach of planning control¹. The appellant's claim that the building has been used for storage is not supported by any compelling or objective evidence.
10. The appellant comments that planning permission has been approved for a rear extension². However, this is not of the same size as the appeal extension and, moreover, it was not approved based on it being used as an independent or self-contained dwelling.
11. The appellant's evidence does not support a claim that when the notice was issued, the matters comprising the alleged breach of planning control had not occurred. Therefore, the ground (b) appeal fails.

Ground (c) appeal

12. An appeal made on ground (c) is that the matters alleged do not constitute a breach of planning control. The onus is on the appellant to make a case on the legal grounds of appeal.
13. The appellant does not provide any evidence to support his ground (c) appeal. The erection of the appeal building, including its use as a self-contained and independent dwelling, comprises an act of development under section 55 of the Act for which planning permission is required. There is no evidence before me to indicate that planning permission has been approved for the breach of planning control.
14. On the evidence that is before me, I conclude that the matters alleged constitute a breach of planning control. Therefore, the ground (c) appeal fails.

¹ Planning application reference No. 22/79340/FUI

² Planning application reference No. 20/75498/FUL

Ground (a) appeal and the deemed planning application

Main Issues

15. An appeal made on ground (a) of section 174(2) of the Act is that planning permission ought to be granted in respect of the breach of planning control alleged in the notice.
16. I have considered the reasons for issuing the notice and the main issue for consideration is the effect of the breach of planning control on future occupants in respect of the acceptability of the gross internal floorspace, outside amenity space, outlook, and daylight, and whether there is a safe pedestrian access to and from the property.

Reasons

17. The breach of planning control relates to the erection of a single storey rear extension in use as a dwellinghouse. The evidence is that planning permission was approved for a larger rear extension in a similar location to the unauthorised development, albeit that it was approved to be used for associated storage and staffroom purposes in association with the hot food take-away use of No. 676 Bolton Road³. As a matter of fact and degree, I do not find that the operational development (i.e., the building) is in accordance with the latter planning permission.
18. The appeal extension has three windows and an entrance door on the western side elevation. The entrance to the one-bedroom two-person residential unit is via the gated alleyway to the rear of the premises and through the rear yard.
19. It is not disputed by the appellant that the gross internal floor area of the residential dwelling is about 30 square metres. In this regard, it falls considerably short of the minimum 50 square metres required for a one bedroom two-person dwelling in the Government's Technical Housing Standards – Nationally Described Space Standard 2015 (NDSS). This weighs significantly against granting planning permission in so far that the residential unit comprises an unacceptably cramped internal living environment to the detriment of day to day living conditions for future occupants.
20. The appellant refers to another planning application proposal in the area which is for an apartment of 36 square metres, and which is said to have no outside amenity space. I do not know if this planning permission has been approved: at final comments stage the Council stated that it had not been determined. In any event, I have determined this appeal on its individual planning merits and against up-to-date development plan policies and the NDSS.
21. The appellant asserts that if he was to '*use the attic space above say for sleeping this would give me 50 square metres*'. It is necessary that the ground (a) appeal relates to the breach of planning control when the notice was issued. There is no evidence to indicate that any attic floorspace had been formed or was being used when the notice was issued. The provision of an additional floor within the building, should that be possible and acceptable, would amount to a different breach of planning control. In any event, I do not have any detailed plans before me to illustrate this different form of development.

22. As part of my site visit, I was able to experience the outlook from the windows of the bedroom and lounge/kitchen of the appeal building. I find that such outlook is unacceptably compromised owing to the very close proximity of the shared boundary wall with No. 678 Bolton Road which is about 1.8 metres in height and approximately 2.0 metres away. Owing to the position and height of the wall, it has the effect of unacceptably enclosing and dominating the outlook of any occupiers of the property, thereby causing material harm to living conditions. Overall, the internal living environment is one that has an oppressive feel for future occupants.
23. In the absence of the completion of a daylight survey, it is difficult for me to exactly quantify whether daylight penetration through the windows is acceptable. Nonetheless, I noted on my appeal site visit that all lounge/kitchen internal lights were turned on. When I turned them off, it was noticeable that the lounge/kitchen area was quite dark. In my judgement, the level of light penetration into the lounge/kitchen area did appear to be limited. Even if it were to be demonstrated from a technical light point of view that it was acceptable, it would not overcome or alter my conclusion about poor levels of outlook for any future occupier of the unauthorised residential unit.
24. As part of my site visit, I was able to see that there was a very limited amount of space around the building. What does exist is essentially used for communal access purposes given the existence of a flat above the hot food takeaway which is reached from a rear metal staircase. Factoring in the need to also store bins, I find that the availability and quantum of private and useable outside amenity space for future occupiers of the dwelling is severely limited from the point of view of ensuring that there is a reasonable amount of space available for sitting out, relaxing, drying washing, and storing day to day domestic paraphernalia.
25. In addition to the above, it is noteworthy that access to the appeal building is from a rear alleyway. I accept that there is less surveillance in this area when compared to say Bolton Road. While I acknowledge the Council's relative assessment, it is noteworthy that there are some other residential properties in the area which have access from the gated rear alleyway. It is also noteworthy that the gated alleyway is key controlled. This therefore affords a degree of security for those using it. There are also some rear windows that overlook the part of the alleyway which leads from Elizabeth Street to the appeal site. It could not therefore be reasonably said that there is no surveillance or activity in terms of use of the access to and from the appeal property.
26. On balance, and, for the above reasons, I do not find that the development is unacceptable from a safety or crime point of view. In this regard, the development accords with policy D6 of the adopted Salford Local Plan: Development Management Policies and Designations 2023 (LP).

Planning Balance and Conclusion

27. I do not find conflict with the design and crime requirements of policy D6 of the LP. However, I am unable to conclude that the development is acceptable in terms of the amount of daylight penetration into the building. Moreover, material harm has collectively been caused to the living conditions of future occupiers of the residential unit owing to poor outlook, deficient gross internal floorspace, and deficient private and useable outside amenity space. For these reasons, I conclude that the development does not accord with the amenity and sustainability

requirements of policies D7 and H2 of the LP, and policies JP-H3 and JP-P1 of the 2024 adopted Places for Everyone Joint Development Plan Document 2022-2039. The overall harm caused to the living conditions of future occupants of the appeal dwelling is a matter of overriding concern. It is not outweighed by any social or economic benefits arising from residential use of the appeal building.

28. Given the above, I conclude that the ground (a) appeal fails. In reaching this conclusion, I have also considered that in upholding the notice it would result in the loss of a home, albeit one that does not appear to be in use. In this regard, a refusal of planning permission would not lead to a significant interference of rights under Article 8 of the European Convention on Human Rights as incorporated into the Human Rights Act 1998 (HRA) which states that everyone has a right to respect for private and family life, their home and correspondence. Given the identified planning harm, I find that a refusal of planning permission is a proportionate, legitimate, and necessary response that would not violate the rights of future occupiers of the property under Article 8 of the HRA. It is necessary that planning permission is refused in the public interest.

Ground (f) appeal

29. An appeal on ground (f) is made on the basis 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.
30. The appellant's ground (f) claim is that the development was completed in accordance with application reference 21/32300/IN. As outlined above, this application relates to a Building Regulations Initial Notice (BRIN) and not a planning permission. Moreover, the evidence is that the BRIN related to a building of a different size and for use as a staffroom and storage in association with the adjacent take-away use. The breach of planning control relates to a fundamentally different form of development and falls within its own separate planning unit.
31. The purpose of the notice is to remedy the injury to amenity which has been caused by the breach of planning control. In considering whether it was expedient to take enforcement action, the Council decided to underenforce. Indeed, the notice does not require the removal of the rear extension. Instead, it requires the use of it as a residential dwelling to cease and including the removal of facilitating residential fixtures and facilities. In this regard, the steps required by the notice to be taken are not excessive.
32. For the above reasons, I conclude that the ground (f) appeal fails.

Conclusion

33. For the reasons given above, 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).

D Hartley

INSPECTOR