

Appeal Decision

Site visit made on 21 April 2026

by **R Bartlett PGDip URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5th May 2026

Appeal Ref: APP/W4705/C/25/3373392

Land at 144 Toller Lane, Bradford, BD9 5JE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Khalid Hussain against an enforcement notice issued by City of Bradford Metropolitan District Council.
- The notice was issued on 12 August 2025.
- The breach of planning control as alleged in the notice is: without planning permission, the erection of a shelter structure to the front of the building on the land.
- The requirements of the notice are to: Demolish the unauthorised shelter structure and remove all arising materials from the land.
- The period for compliance with the requirements is: Two calendar months.
- The appeal is proceeding on the grounds set out in section 174(2)(c), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since the prescribed fees have not been paid within the specified period, any appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld as varied in the terms set out below in the Formal Decision.

Procedural Matters

1. The appeal form refers only to ground (c) with grounds (c), (a), (f) and (g) being referred to in the supporting statement. However, the appeal made on ground (a) has lapsed due to the required fee not being paid within the specified period. Consequently, I am unable to consider any planning merits or whether planning permission should be granted retrospectively for the development in whole or in part.
2. I note that some of the side panels have been removed from the structure and that the appellant is willing to make further alterations, including removing the side cross frame bars. Photographs submitted by the appellant also demonstrate that previous canopies and structures used to cover the area immediately in front of the shop had become unsafe and unfit for purpose. However, these matters relate to planning merits that I am unable to consider in the absence of an appeal on ground (a).

The appeal on ground (c)

3. The appeal on ground (c) is made on the basis that the matters alleged in the notice do not constitute a breach of planning control. This is a legal ground, and to succeed, the burden of proof is on the appellant to demonstrate that, on the balance of probability, the matters alleged in the notice do not constitute a breach of planning control.
4. The appellant states that no breach of planning control has occurred as the works described in the notice have been undertaken on his own land, do not encroach

into the public footpath or highway, do not obstruct pedestrians or affect neighbouring properties, and because the side panels of the structure have been removed, making it open and see-through, which reduces its visual impact. He goes on to state that the canopy provides simple weather protection for displayed goods and is an ancillary or incidental feature integral to the lawful use of the retail premises.

5. Whilst the appellant is of the view that planning permission is not required, he states that even if the shelter is development requiring planning permission, it causes no harm and is so minor in nature that it should not reasonably be treated as a breach of planning control and it is not expedient to enforce. However, expediency is a matter for the Courts.
6. Section 55(1) of the Town and Country Planning Act 1990 (the 1990 Act) sets out the meaning of development, which is defined as *“the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.”*
7. Section 55(1A) of the 1990 Act, confirms that building operations include *“(c) structural alterations of or additions to buildings; and (d) other operations normally undertaken by a person carrying on business as a builder.”*
8. Section 55(2) of the 1990 Act sets out a list of operations or uses of land that shall not be taken to involve development. However, the works undertaken in this case do not fall within any of these exceptions.
9. I consider that the shelter structure constructed in this case is a building, having regard to its size, permanence and physical attachment to the host building and the ground. Consequently, it is development as defined by Section 55 of the 1990 Act.
10. The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), grants planning permission for some forms of development without the need for an application to be made to the local planning authority. However, Part 7, Non-domestic extensions and alterations, at paragraph A.1(g) confirms that development is not permitted by the GPDO if any part of it extends beyond the front of any existing building.
11. As the structure extends beyond the front of the host building, regardless of ownership and its effect on the adjacent footpath or neighbours, it is not permitted by the GPDO and therefore it requires express planning permission.
12. The appellant refers to case law¹, which he states recognises that operations incidental to a lawful use may not constitute development. However, the fact that the use of the structure is ancillary or incidental to the shop does not negate the need for planning permission to construct it, given that it is a building operation, for the reasons already set out above.
13. The removal of the side panels does not alter my view on this matter. The structure constituted a breach of planning control when the enforcement notice was issued, and it remains as such in its altered form. Replacing or retaining the structure with alterations to its appearance would also require planning permission.

¹ Burford v SSE [1981]

14. For the above reasons, I conclude, that on the balance of probability, the matters stated in the notice do constitute a breach of planning control. Accordingly, the appeal on ground (c) fails.

The appeal on ground (f)

15. The appeal on ground (f) is made on the basis that the requirements of the notice exceed what is necessary to either (a) remedy the breach of planning control or (b) remedy any injury to amenity which has been caused by the breach.
16. In this case, as the enforcement notice requires the demolition of the shelter structure and the removal of all materials associated with this from the land, I consider the purpose of the notice is to remedy the breach of planning control.
17. The appellant states that the requirements of the notice for complete removal of the structure are disproportionate and that more reasonable steps would be to allow the structure to be retained subject to some design and material improvements, such as replacing the timber with metal/aluminium, painting it an agreed colour, or allowing the submission of a retrospective application.
18. It was open to the appellant to apply for retrospective planning permission for the development or for an alternative scheme prior to submitting an appeal, or to appeal on ground (a) that planning permission should be granted. As replacing the timber structure would also require its complete removal, this would not be a less onerous requirement. The erection of a new metal or aluminium structure does not form any part of the matters stated in the notice and would again be more onerous than the straightforward removal of the existing structure.
19. Altering the design or materials would not remove the need for planning permission or remedy the breach of planning control that has occurred. Furthermore, I have no alternative scheme before me for consideration and no appeal on ground (a).
20. Since the purposes of the notice are to remedy the breach of planning control, no lesser steps other than those set out in the notice would achieve those purposes. Therefore, the appeal on ground (f) fails.

The appeal on ground (g)

21. The appeal on ground (g) is made on the basis that the period for compliance specified in the notice falls short of what should reasonably be allowed. The period specified in the notice is 2 months. A minimum of 12 months has been requested.
22. The time for compliance relates to the time taken to meet the requirements of the notice. It appears to me that dismantling the structure would be relatively straightforward and would not require any special equipment or expertise. A van or skip could be hired to remove the waste. There is no evidence before me to support the claim that the cost of the works would be significant or that the necessary works could not be undertaken outside of normal opening times to minimise disruption to customers or the operation of the business.
23. I acknowledge that the removal of the structure would result in goods that are displayed outside of the shop being left uncovered, but this will be the case whenever the canopy is removed, and extending the time for compliance would not remedy this issue. Furthermore, fresh food and perishable goods have a

limited shelf life and would not usually be kept in stock for long periods. The notice period would enable stock levels to be reduced until alternative arrangements can be made for their external display.

24. I am advised that the appellant is a sole trader and the primary carer for a child with a medical condition. The appellant states that caring responsibilities limit the available time for compliance and that the removal of the structure within a short timeframe would cause severe hardship and risk to business viability. It is also stated that compliance within a short timeframe would require the rapid arrangement of contractors and funding for removal works, waste disposal, and business disruption. The appellant claims this would cause significant financial hardship, place the viability of the business at risk during an already difficult economic period for small businesses, and create undue stress for his family.
25. Whilst I agree that the two-month period specified in the notice would ordinarily be sufficient and proportionate to remove a development of this nature and scale, having had regard to the personal circumstances of the appellant, and the implications that having to reduce stock levels will have on the business, I consider it reasonable to slightly extend the period for compliance to three months.
26. The appeal on ground (g) succeeds to this extent.

Conclusion

27. For the reasons given above, I conclude that the appeal succeeds only in part. I shall therefore uphold the notice with a variation to the period for compliance.

Formal Decision

28. It is directed that the enforcement notice is varied by the deletion from paragraph 6 of the words "Two calendar months" and their substitution with the words "Three calendar months" as the time for compliance with the requirements.
29. Subject to this variation, the appeal is dismissed and the enforcement notice is upheld.

R Bartlett

INSPECTOR