



Appeal Decision

Site visit made on 15 May 2026

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 May 2026

Appeal Ref: APP/F2360/C/25/3364602

Land at Victorian Plumbing, Sustainability Way, Farington Moss, Leyland, PR26 6TB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Victorian Plumbing Ltd against an enforcement notice issued by South Ribble Borough Council.
- The notice was issued on 24 March 2025.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a metal wire fence and gates ("the Fence"), in excess of 2.0 metres high on the Land.
- The requirements of the notice are to:
 - i) Remove the Fence, (indicated by a blue line on the Plan), gates, posts and foundations from the land.
 - ii) Restore the Land where the Fence is located back to the condition it was in before the unauthorised development took place.
- The period for compliance with the requirements is: Within two months from the date the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (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.

Summary Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Application for costs

1. An application for costs has been made by Victoria Plumbing Ltd, against South Ribble Borough Council. This application is the subject of a separate decision.

Background

2. The site forms part of a wider business park, which was granted outline planning permission in 2021. Reserved Matters consent was granted for the Victorian Plumbing (VP) site in 2022, and this was subject to a non-material amendment in 2023. It is undisputed that the development of the appeal site was completed in accordance with the approved plans and conditions. However, following its completion, a section of the approved boundary fencing and gates running along the eastern side of the site, were relocated to the opposite side of a footpath/cycleway, thereby enclosing and restricting public access to this.

The appeal on ground (a) and the deemed planning application

3. An appeal on ground (a) is made on the basis that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.

Main Issues

4. The main issues, having regard to the Council's reasons for issuing the notice, are the effect of the development on i) the character and appearance of the area, and ii) the accessibility and public use of the adjacent footpath/cycleway.

Reasons

5. The 2.4m high black paladin rigid steel mesh fencing and gates in question enclose a large industrial warehouse unit, together with its car park and service yard. Many units within the business park are enclosed by similar high fencing, with gates and barriers securing access to them. The landscaped area to the north of the site is also enclosed by fencing of varying heights and does not appear to be publicly accessible from Sustainability Way.
6. The height and design of the fencing is the same as that previously approved. The only difference is that it is located on the opposite side of the footpath/cycleway to that shown on the previously approved plans. The fencing and gates do not therefore detract from the overall character and appearance of the site or its wider surroundings, which are generally industrial in nature.
7. To the south of the site, there is a wide shared footpath and cycleway which runs between Centurion Way and Mill Lane. This is a designated Public Right of Way (PRoW), which provides pedestrian and cycle access between the business park, public open spaces and residential areas to the south and west of the site.
8. A further shared footpath/cycleway has been provided through the VP site, along the eastern side of the service yard, linking the existing PRoW to Sustainability Way. Due to the repositioning of the fencing and gates, this link has been enclosed and blocked off, preventing its use by members of the public. It does however remain available for use by employees of the site who may require pedestrian or cycle access from either the north or south, and who will be aware of the health and safety risks associated with the movement of vehicles within the adjacent service yard. It is also undisputed that the footpath/cycleway that has been enclosed crosses privately owned land and is not a designated PRoW.
9. The relocated fencing also prevents access through the landscaped area between VP and the adjacent premises to the east. However, I note that parts of this area have been densely planted, as shown on the enforcement plan and photographs, and therefore overtime, as this planting matures, it would not be possible for people to pass through it anyway. Moreover, whilst the land is open at the southern end, and dogs were being exercised on it at the time of my visit, there is no evidence before me to suggest that this area was intended to be public open space providing access or recreation, as opposed to providing landscaping and biodiversity benefits.
10. In summary, the development of the wider VP site, as approved and built included a footpath/cycleway outside of the fenced operational area, which despite remaining in private ownership was initially made available for public use and was furnished with public information boards as opposed to any form of public access restrictions. The relocation of the boundary fencing and gates, whilst not causing any visual harm, results in the detrimental loss of this pedestrian/cycle link for members of the public. In this respect, given that the planning application made relates solely to the fencing and gates as a standalone development, I conclude

that the siting and layout of this development would conflict with Policies G8(d) and G17(b) of the South Ribble Borough Council Local Plan (July 2015), and Policy 3 of the Central Lancashire Adopted Core Strategy (July 2012) (the CS). These policies require developments to provide access to well-designed cycleway and footways and seek to improve pedestrian and cycle facilities and patterns of movement. I do not consider Policy 17 of the CS, which relates specifically to the design of buildings, to be relevant to this case.

11. The development also conflicts with paragraphs 96, 105 and 135 of the National Planning Policy Framework, which promote layouts that allow for easy pedestrian and cycle connections that encourage walking and cycling, adding links to existing public rights of way and access, and ensuring development functions well, and creates places that are accessible.

Other considerations

12. Although permitted development rights cannot be granted retrospectively, the fence could be replaced with one not exceeding 2m in height. This fallback position is a material consideration. There is no legal obligation upon the appellant to allow public access over any part of their land, and this could be prevented using lower fencing, signage and security staff or cameras without the need for planning permission.
13. I have had regard to the various public consultation and planning application documents that have been drawn to my attention, but these relate primarily to indicative proposals for multiple units on the VP site, as opposed to the scheme that was subsequently granted Reserved Matters consent for one large unit. Moreover, compliance with these was not secured by planning conditions or obligations containing future retention clauses.
14. The footpath/cycleway in question, whilst having soft landscaping on one side, is hard up to the VP service yard on the other side. Other more pleasant public footpaths and cycleways exist in the area to link residential, employment and recreational open spaces. Whilst I acknowledge that the footpath and cycleway along Enterprise Drive is adjacent to the road and may be less attractive for some people, such as those from nearby residential areas walking their dogs, it nevertheless provides a safe, well-lit route, benefiting from natural surveillance, for those travelling between home and work. I also noted that the road is not particularly busy, benefits from traffic calming measures such as speed humps, and is subject to a 20mph limit.
15. I note that there is only one other business unit accessed from Sustainability Way, and the sole access to that unit is positioned close to the junction of Enterprise Drive. This adjacent unit is secured by fencing all around and has no other pedestrian or cycle access to it from the east, south or west. There is very little difference in time and distance, between accessing any other public or employment land on the wider business park via Enterprise Drive rather than the by the footway/cycleway through the VP site.
16. As employees of VP are still able to enter and leave that site on foot or by bicycle from the north and south, and given that the footpath/cycleway does not provide any significant short cut or access links between other areas, restricting the public use of this link would not have any significant effect on the overall sustainability of the original development or its surroundings.

17. There is no evidence before me to suggest that HGV trailers cannot be parked in the large service yard without overhanging the footpath, and it was evident from my visit that sleepers are in place to prevent this. I also noted that large commercial waste bins are situated between the rear of the trailers and the footway/cycleway. Although restricting public access along the side of the service yard may moderately improve security, I am not persuaded that the relocation of the fencing and gates is essential to the safe operation of the site. I also agree with the Council that locating the fence inside the footpath would increase the safety of its users, regardless of whether they are staff or members of the public.
18. There is little doubt in my mind that when approving the warehouse development, the Council were of the view that the footpath/cycleway shown on the plans would provide a public access link, having sought amended plans to ensure the fenceline would not obstruct this. However, no mechanisms were put in place to ensure that this link was managed, maintained or retained in perpetuity, or to ensure its adoption, transfer of ownership or public accessibility. There is also nothing before me to demonstrate that such a planning condition or obligation would have met the relevant tests or that planning permission for the development as a whole would have been justifiably refused in the absence of a permanent public footpath/cycleway being secured, given that the site is sustainable and easily accessible to its employees.

Planning Balance and Conclusion

19. Whilst the positioning of the fencing and gates unfortunately restricts public access through the appellant's land, this does not significantly increase walking and cycling routes between any key areas brought to my attention, and alternative safe routes of similar time and distance are available.
20. There is no legal obligation for the appellant to enable members of the public to cross any part of their land, and alternative measures could be used to prevent this without the need for planning permission. Given the appellant's strong desire to prevent members of the public from using the footway/cycleway adjacent to its service yard, for security and health and safety reasons, the prospect of this occurring by alternative means, is more than merely theoretical. Accordingly, I afford the fallback position significant weight.
21. These material considerations indicate that the appeal should be decided other than in accordance with the development plan. Consequently, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the matters described in the notice. The appeal on grounds (f) and (g) do not therefore fall to be considered.

Formal Decision

22. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the erection of a metal wire fence and gates, on land at Victorian Plumbing, Sustainability Way, Farrington Moss, Leyland, PR26 6TB.

R Bartlett

INSPECTOR