



Appeal Decision

Site visit not required

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

an Inspector appointed by the Secretary of State

Decision date: 13th July 2026

Appeal Ref: APP/V4250/C/25/3371901

139 & 139A Elliott Street, Tyldesley, Manchester, M29 8FL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr T Muscat of C&T Real Estate Limited against an enforcement notice issued by Wigan Metropolitan Borough Council.
- The notice was issued on 30 April 2025.
- The breach of planning control as alleged in the notice is without planning permission, the removal of original single glazed slash timber frames with ornate lead and stained glass upper panels x4, removal of original single glazed sash timber frames and plain glass windows x11, removal of original timber frames and doors with single glazed upper panel x2 and removal of original single glazed timber framed shop front window, sandstone and brickwork and their replacement with uPVC frames and modern glazing from the building on the Land.
- The requirements of the notice are to remove the current uPVC windows, doors and their frames and reinstate the original or like for like windows, including the ornate leaded and stained glass to the original design, pattern and colour together with reinstatement of sandstone and brickwork below the shop front window. Frames and doors are to be to the same proportions, the bottom sash to be recessed behind the top sash. Replace the windows, doors, sandstone and brickwork as per the attached Plan 1 – Elliott Street elevation of the Reinstatement Schedule and Plan 2 – High Street elevation of the Reinstatement Schedule, with the below conditions:
 - Reinstate or replace like for like the single glazed timber window frames and ornate stained glass with lead in upper panels (including colour) labelled W1 in yellow and F1 in purple as shown on Plan 1 and Plan 2.
 - Reinstate or replace like for like single glazed timber window frames with plain glass (including colour) labelled W2 in blue on Plan 2.
 - Reinstate or replace like for like the timber frames with single glazed plain glass and timber doors labelled D1 in green on Plan 1 and Plan 2.
 - Reinstate or replace like for like the single glazed timber framed shop front window, sandstone and brickwork labelled F2 in red on Plan 1.
- The period for compliance with the requirements is 8 months after the notice takes effect.
- The appeal is proceeding on the ground set out in section 174(2)(f) of the Town and Country Planning Act 1990 (as amended) (the Act).

Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Ground (f) appeal

2. 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.

3. The appellant's case on ground (f) is that the requirement to reinstate or replace windows, doors, and shopfront glazing with single glazing is not necessary as there are modern double-glazed alternatives which would preserve the character and appearance of the Tyldesley Town Centre Conservation Area (CA). Moreover, the appellant states that single glazing would not be energy efficient and hence its use would conflict with climate change objectives. He says that the use of inefficient window technology would impose a disproportionate financial burden. In addition, he comments that the new replacement windows are similar to another property in the CA and that the requirements should be varied so that new designs and specifications are to be subsequently approved.
4. The purpose of the notice is to remedy the breach of planning control by removing the unauthorised development from the land and restoring the property to its condition prior to the breach of planning control occurring. In this regard, the requirements of the notice are not excessive.
5. As there is no ground (a) appeal and deemed planning application before me, I cannot consider the planning merits of a possible alternative form of development and, moreover, am unable to weigh in the overall planning balance the appellant's claims about energy efficiency, financial consequences, and climate change impacts.
6. I also emphasise that the requirements of a notice must be precise. It is not possible to include requirements in a notice which effectively defer the consideration of replacement development by way of the submission of a scheme for subsequent Council approval. That would not provide necessary precision and, importantly, would go beyond the purpose of the notice which is to remedy the breach of planning control by restoring the land to its previous condition.
7. Put another way, the power to vary the terms of a notice under section 176(1) of the Act cannot be used to attack the substance of the notice. Moreover, the possible installation of differently designed doors, windows and/or a shop front may constitute an act of development which does not in fact relate to the breach of planning control. If so, then this is a separate matter that would need to be discussed between the appellant and the Council outside of this appeal.
8. I therefore conclude that the ground (f) appeal fails.

Conclusion

9. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

D Hartley

INSPECTOR