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## Appeal Decision

Site visit made on 15 May 2017

**by Thomas Shields MA DipURP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 23 May 2017**

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**Appeal Ref: APP/Z4718/C/17/3167892**

**Land to south west side of Barnsley Road, Grange Moor, Huddersfield, West Yorkshire**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the Act).
  - The appeal is made by Mr James Holgate against an enforcement notice issued by Kirklees Metropolitan Council.
  - The enforcement notice was issued on 16 December 2016.
  - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land from agriculture to storage and the operational development of the formation of a hard-surfaced track.
  - The requirements of the notice are to cease the use of the land for storage and remove all articles, vehicles, plant, machinery and hard surfaces from the site and restore the land to its previous condition.
  - The period for compliance with the requirements is 6 weeks.
  - The appeal is proceeding on the grounds set out in section 174(2)(c) and (g) of the Town and Country Planning Act 1990 as amended.
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### Decision

1. It is directed that the enforcement notice be corrected:
  - in Section 3 by inserting between the words "to" and "storage" the words: "a mixed use of agriculture and".
2. It is directed that the enforcement notice be varied:
  - in Section 5 by deleting from the first line the words "Within 6 weeks from the date that this notice takes effect"; and
  - after the word "condition." inserting the following words: "PERIOD FOR COMPLIANCE: 5 months".
3. Subject to the correction and variation the appeal is dismissed and the enforcement notice is upheld.

### The appeal on ground (c)

4. The ground of appeal is that the alleged matters, if they occurred, did not constitute a breach of planning control. The relevant date for determining whether there has been a breach of planning control is the date the notice was issued. In legal grounds of appeal such as ground (c) the burden of proof rests with the appellant, and the test of the evidence is the balance of probability.
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5. The appeal site is a field of approximately 4 Ha in area. It is located to the south west side of Barnsley Road and adjoins the appellant's business premises immediately to the north. The hard surfaced track referred to in the enforcement notice leads directly into the field from those premises and branches off into two directions, adjacent to which is a substantial quantity of plant equipment, vehicles and other items. Some stored items are also located to the east of the track.
6. Other than this storage, in the northern part of the field, the remainder of the field was left to grass and was clear of any non-agricultural use. Hence, even on this limited basis the alleged change of use of the field would be more accurately described as being in a mixed use of agriculture and storage, rather than just storage use. It would not prejudice either party by my correcting the notice to reflect this and I have therefore done so.
7. The Council's evidence is that since 2013 a large quantity of storage has accumulated in the field comprising various items of machinery, large plant equipment, and vehicles. These include a cement mixer, curtain-sided trailers, a bulldozer, piles of sheet insulation materials, balers, tractors, drainage piping, roofing material, stacks of palisade fencing, piles of tyres, and other miscellaneous pieces of plant equipment and other items. The photographs taken by Council officers during an inspection of the site in January 2016 together with Google aerial images captured in May 2016 support the Council's evidence relating to the quantity of storage (in excess of 200 items) and the area of land over which it is spread.
8. The Council argue that although some of the plant and vehicles are agricultural in nature, the storage as a whole is not for agricultural purposes but instead is an extension of the storage of plant and vehicles at his adjoining business premises. Also, that the sheer scale of storage far exceeds the agricultural requirements of the land upon which it is sited and which could reasonably be expected.
9. The appellant's evidence is set out in the initial appeal form<sup>1</sup> submitted to the Inspectorate. He states that the machinery has been acquired over a number of years, that some of it is brand new and some useful for spares. Also, that the land is used for the storage of agricultural equipment used to farm 300 acres of land and that the field is part of the appellant's agricultural holding. The Council disputes these claims.
10. However, the appellant has not submitted any evidence of his agricultural holding or the 300 acres referred to as being farmed by him. He states that applications have been made to the Council for buildings to house the storage but have been refused. While that may be so they are not matters before me in this appeal.
11. During my visit to the appeal I saw substantial storage of items over a significant area as I have previously described. Some of the stored items I have described (for example roofing materials, piles of tyres) are plainly not agricultural in nature. Moreover, I saw no evidence that the storage, as a whole, was reasonably required for agricultural purposes on the land. With reference to the photographs previously taken by the Council in January 2016, I saw that many of the items of plant and vehicles appeared not to have moved

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<sup>1</sup> Enforcement Notice Appeal Form, 24 January 2017

since that time, and many of which appeared to have been static for much longer, appearing beyond repair and re-use. I saw that some of them had been part stripped for spares; a factor acknowledged by the appellant.

12. The appellant also states that part of the track is necessary for access to the wind turbine in the north-west corner of the appeal site. However, no evidence has been submitted of planning permission having been granted for a track to the turbine, nor any detailed argument made that it was permitted development. It seems to me that the main function of the track on the site is to facilitate the storage of plant equipment, vehicles, and other items as alleged.
13. Given the Council's evidence on the one hand, and the paucity of evidence from the appellant on the other, I find on the balance of probability that the evidence weighs heavily against the appellant's claims of simple agricultural storage related to farming on the land. It seems far more likely to me that the use of the land is in a mixed use for agriculture and large-scale storage resulting in a material change of use of the land.
14. As such, I conclude that the material change of use constitutes development as defined by section 55 of the Act, and for which no planning permission has been granted. It is therefore a breach of planning control.
15. The appeal on ground (c) therefore fails.

**The appeal on ground (g)**

16. The Council in their statement agreed to an extension of the period for compliance in order to allow for sale of the storage through an auction at the end of September 2017.
17. I have therefore varied the notice accordingly to extend the compliance period to 5 months from the date of this decision.

*Thomas Shields*

INSPECTOR