



Appeal Decision

Site visit made on 16 January 2025

by **Laura Renaudon LLM LARTPI Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 12 March 2025

Appeal Ref: APP/Z4718/C/24/3336991

96A Bradford Road, HUDDERSFIELD, HD1 6JR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Ammaar Khan against an enforcement notice issued by Kirklees Metropolitan Council.
- The notice was issued on 8 December 2023.
- The breach of planning control as alleged in the notice is Without the benefit of planning permission, the siting of storage container and raised supporting structure.
- The requirements of the notice are to (1) permanently remove the storage container from the site; (2) dismantle the supporting structure and permanently remove it from the site; and (3) remove all resulting material from the site.
- The period for compliance with the requirements is 60 days.
- The appeal is proceeding on the ground set out in section 174(2)(b) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: the enforcement notice is quashed.

Main Issue

1. The appeal is brought on ground (b) which is to say that the breach of control alleged in the notice has not occurred. I do not understand the appellant to dispute that a storage container and a related supporting structure have been placed upon the land; but he contends that the temporary placement of the container at the rear of the property is not a piece of 'development'. The appeal ground might therefore be more appropriately considered under ground (c), which is to say that if the matters alleged in the notice have occurred, it is contended that no breach of planning control arises.
2. The real issue however is whether the notice is a valid one and, if not, is capable of correction before any such grounds of appeal can be considered.

Reasons

3. The notice alleges the 'siting' of a storage container and a raised supporting structure. Although asserting that development has taken place, the notice itself is silent as to whether this 'siting' amounts to an act of operational development, or if a material change in the land use is being alleged. It is unclear whether the reference to a 'storage' container is descriptive of the use or of the physical attributes of the container. The notice recites that a previous planning application for a land use for the 'siting of storage container and raised supporting structure' had been refused. Nonetheless it goes on to state that it appears to the Council that the development had occurred within the previous four years. Having regard to the provisions of section 171B of the 1990 Act as they existed at the time the notice was issued, this reference to a four year limitation period is indicative of an allegation of unauthorised operational development.

4. Reference to the 'siting' of objects or structures upon land is nowhere found in the 1990 Act as a description of development. Section 55 of the Act provides that, except where the context otherwise requires, 'development' means 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. Building operations then warrant further description, to include demolition, rebuilding, structural alterations or additions, or other operations normally undertaken by a person carrying on business as a builder. None of these refer to the 'siting' of structures or objects. Whether or not a building has been erected, which is not alleged by the notice, is generally determined by reference to the object's size, permanence, and degree of physical attachment to the land.
5. Nor is the 'siting' of an object an appropriate description of any land use. The notice does not state what the container, if it is not a building, is actually being used for and thus it is not possible to determine whether or not any material change in the use of the land has arisen. A sign outside the property identifies it as 'Hillhouse Storage' but it is not said what the previous land use was and whether any material change has occurred.
6. It is not possible therefore to discern what act of development requiring planning permission is sought to be alleged by the notice. If the Council do seek to allege a material change of use in the land, then that would be subject to a different limitation period from the four years to which reference is made. Either way, a notice must be sufficiently precise and unambiguous as to tell the recipient what he has done wrong and what he must do to remedy it. Although the remedy sought here is clear (although does not require any storage use to cease) the matters alleged in the notice do not disclose anything constituting development requiring planning permission. Accordingly the appellant has not been able to seek to disprove either that operational development has occurred, or that a material change in the use of the land has taken place. It is not possible for me to correct the notice because the appellant has not had the opportunity to respond to any such corrected allegation.

Other Matters

7. It follows from my reasoning above that the notice will be quashed, but the Council will no doubt consider these points and decide whether to reissue the notice.

Conclusion

8. For the reasons given above I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act as amended since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed. Therefore the grounds of appeal set out in section 174(2) of the 1990 Act as amended do not fall to be considered.

Formal Decision

9. The enforcement notice is quashed.

Laura Renaudon

INSPECTOR