
Appeal Decision

Site visit made on 12 March 2025

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd April 2025

Appeal Ref: APP/J4423/C/24/3340897

Site of former 48 Savile Street, Sheffield, S4 7UD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Razwan Ulhaq of Hahq Manufacturing Ltd against an enforcement notice issued by Sheffield City Council.
 - The notice was issued on 13 February 2024.
 - The breach of planning control as alleged in the notice is: without planning permission, the use of the land as a car sales lot, the siting of a cabin and the provision of associated signs.
 - The requirements of the notice are to:
 - (i) Cease the use of the Land for the sale of vehicles;
 - (ii) Remove the vehicles from the Land;
 - (iii) Remove the cabin from the Land;
 - (iv) Remove the associated signage from the Land;
 - (v) Remove from the Land any waste materials resulting from compliance with points 5 (i) to (iv) above.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) 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.
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Decision

1. It is directed that the enforcement notice be corrected by deleting the words ‘without planning permission, the use of the land as a car sales lot, the siting of a cabin and the provision of associated signs’ and replacing them with ‘without planning permission, the material change of use of the land to a car sales lot, the siting of a cabin and the provision of associated signs’.
2. Subject to that correction the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

3. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published in December 2024. This does not raise any matters that require me to seek representations from the main parties in this case. I have, however, determined the appeal having regard to the revised Framework.

The Notice

4. The enforcement notice relates to the use of the site as a car sales lot and associated operational development comprising a sales cabin and signage. Retrospective planning permission was sought for the use and the development on a temporary basis, but this was refused by the Council in January 2024 under application ref. 23/02529/FUL.

5. The alleged breach of planning control, as set out in the notice, refers to 'the use of the land as a car sales lot, the siting of a cabin and the provision of associated signs'. However, only a 'material' change of use constitutes development requiring planning permission. It is clear the allegation intended to refer to a material change of use. I have therefore corrected the breach of planning control by deleting the words in section 3 of the notice and replacing them with 'without planning permission, the material change of use of the land to a car sales lot, the siting of a cabin and the provision of associated signs'. This correction can be made without injustice being caused to either of the main parties.

Ground (a) appeal and the deemed planning application

6. An appeal on ground (a) is that planning permission ought to be granted in respect of the breach of planning control constituted by the matters stated in the notice. The main issues are the effect of the development on the setting of the Grade II listed Don Sawmills; and whether the development is suitable having regard to flood risk.

Reasons

Setting of listed building

7. The appeal site is a rectangular parcel of land which forms part of the curtilage of Don Sawmills, a Grade II listed building. The site is situated between the Sawmills to the south and Savile Street, a busy dual carriageway, to the north, and is flanked on either side by commercial buildings fronting onto Savile Street. The front of the site is bounded by fencing with two gated accesses and there is a large freestanding digital advertisement to the site frontage and a bus shelter on the adjacent footway. The surrounding area features a diverse mix of business premises which includes offices, storage facilities, and retail units including a large supermarket. The Grade II* listed Wicker Arches, a railway bridge and viaduct, is located to the west of the site.
8. Given the degree of separation and intervening buildings between the appeal site and Wicker Arches, I share the Council's view that there is no harm to the setting of this heritage asset.
9. The list entry for Don Sawmills refers to it as part two, part three storeys with a basement. However, since the enforcement notice was served, the building has been substantially reduced in height for health and safety reasons and I could see during my site visit that it is derelict and in a poor state of repair.
10. Nevertheless, it has historical and architectural interest as a former sawmill dating from c.1870 with later additions. The southern elevation of the building adjoins the northern bank of the River Don and the relationship between the two can be appreciated from the Five Weirs Walk bridge to the rear. This setting is key to the significance of the building as it contributes to an understanding of the industrial heritage of the river corridor. It also derives significance from its remaining architectural features including arched openings and traditional materials. The northern side of the building is not as important partly due to the scale and proximity of the adjacent commercial premises, but still contributes to the setting given that it forms part of the historic curtilage, which can be appreciated from parts of Savile Street and Spital Hill beyond, from where there are views of the site from an elevated position.

11. The evidence indicates the appeal site was largely free of built development prior to the unauthorised development taking place. This would have allowed for views towards the northern elevation of the listed building. Although the fencing on the site frontage and the freestanding advertisement behind it are seen against the backdrop of the listed building, they are set a reasonable distance away from the building and do not significantly screen views towards it.
12. The operational development associated with the unauthorised use comprises a cabin of considerable length and utilitarian design which is sited adjacent to the listed building with only a small gap separating the two. The number of cars displayed for sale will vary, but at the time of my site visit there were a large number of vehicles parked across the site, including some immediately in front of the building, with relatively little open space remaining. As a result, the use has given rise to an over intensive use of the site. The cabin and the vehicles partly conceal the northern elevation of the building and result in a cluttered appearance when viewed alongside it, and are incongruous within its curtilage.
13. Although the development does not affect the rear elevation of the building, which is the more important one, I nevertheless find that it unacceptably diminishes the setting of the building and the way in which it is experienced from the front. Therefore, the development does not conserve the heritage asset. I attach great weight to this matter in accordance with paragraph 212 of the Framework.
14. Paragraph 209 of the Framework states that, where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision. Despite being structurally secured more recently, the building has deteriorated over many years. Its current condition does not, therefore, justify the harm to its setting and significance.
15. I conclude that the development has a harmful effect on the setting of the Grade II listed Don Sawmills. Therefore, it conflicts with Policies BE5, IB9, BE15 and BE19 of the Sheffield Unitary Development Plan 1998 and Policy CS74 of the Sheffield Development Framework Core Strategy 2009 (the CS), which, among other things, require development to respect the distinctive heritage of the city and preserve or enhance buildings and areas of special architectural or historic interest. It is also contrary to paragraphs 135, 210 and 215 of the Framework, where these seek to ensure that development is sympathetic to local character and history and conserves and enhances heritage assets and their settings.
16. The development results in less than substantial harm to the setting of the listed building. In accordance with paragraph 215 of the Framework this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimal viable use.
17. I have taken into account that permission is sought on a temporary basis only, while redevelopment proposals for the wider site are formulated. However, this does not justify the harm, particularly as the development has already been in place for a long period, and it is unclear when redevelopment proposals are likely to come forward.
18. The development supports an existing business in line with the aims of local and national policies, with associated social and economic benefits, including a small number of jobs. Given the modest scale of the development, I attach limited weight to these matters and conclude that they do not outweigh the less than substantial harm that would be caused to the significance of the designated heritage asset.

Flood risk

19. The appeal site is within Flood Zone 3 which is identified as having a 'high probability' of flooding. The appellant has submitted a flood risk assessment (FRA), which is a revision of the earlier version considered by the Council at application stage. It includes an Environment Agency map which indicates that the site is at 'low risk' from flooding from rivers or the sea, with between a 0.1% and 1% chance of flooding each year. The site is, however, adjacent to a 'high risk' area, and the FRA shows that it has flooded historically, including as recently as 2019.
20. The use as a car sales lot falls within the 'less vulnerable' class in Annex 3 of the Framework. Thus, it may be acceptable provided that it is appropriately flood resistant and resilient, incorporates sustainable drainage systems, demonstrates that residual risk can be managed and includes safe access and escape routes, in accordance with paragraph 181 of the Framework.
21. The formal flood defences approved under application ref. 14/03201/RG3 which were previously installed on the site have been removed. The FRA states that there are existing de-facto flood defence measures in the form of a wall to the southern boundary which can provide flood protection from the adjacent river up to a height of 46.29m AOD, as detailed in a separate report. That report, however, has not been provided so the effectiveness of these defences is unsubstantiated. The FRA recommends that the existing wall be repaired, where necessary, to ensure its longevity and suitability to resist flooding, but there is little detail to demonstrate the extent of the works required.
22. Moreover, the FRA alludes to other flood protection and resilience measures potentially being required, but no substantive details have been provided. Details of safe access and escape routes, sustainable drainage systems, and how any residual risk can be managed have also not been submitted. Given the uncertainty around the existing flood defences and any further mitigation measures which may be required, I am not satisfied that this matter can be satisfactorily addressed by planning conditions.
23. Therefore, based on the evidence before me, I conclude that the suitability of the location for the development has not been adequately addressed, having particular regard to flood risk. It therefore conflicts with Policy CS67 of the CS and paragraph 181 of the Framework in their aims to reduce and manage flood risk.

Conclusion

24. I find that the development is harmful to the setting of the Grade II listed building, and that it is not suitable having regard to flood risk. There is therefore conflict with the development plan as a whole and there are no other material considerations which outweigh this finding.
25. I therefore conclude that the appeal on ground (a) should not succeed. I shall uphold the enforcement notice with a correction and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

M Ollerenshaw

INSPECTOR