



Appeal Decision

Site visit made on 15 April 2025

by **C Rafferty LLB(Hons), Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 16 May 2025

Appeal Ref: APP/Z4718/C/24/3341137

Land and property at Unit 4, The Old Stone Yard, Near Bank, Shelley, Huddersfield, Kirklees HD8 8LS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Beneficial Estates Limited against an enforcement notice issued by Kirklees Metropolitan Council.
 - The notice was issued on 16 February 2024.
 - The breach of planning control as alleged in the notice is without the benefit of planning permission, the erection of a workshop/ storage building.
 - The requirements of the notice are to:
 - a) Dismantle and demolish the workshop/storage building in its entirety including any footings and foundations;
 - b) Return the land to its condition prior to the breach taking place;
 - c) Remove from the land all debris and resultant materials from carrying out the above steps.
 - The period for compliance with the requirements is: 90 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(f), (g) of the Town and Country Planning Act 1990 (as amended).
-

Formal Decision

1. It is directed that the enforcement notice is corrected by:
 - (i) the deletion of the words “including any footings and foundations” from paragraph 5(a); and
 - (ii) the deletion of the word “land” from paragraphs 5(b) and 5(c), and its substitution with the word “site”.
2. Subject to the corrections, the appeal is dismissed and the enforcement notice is upheld.

The Enforcement Notice

3. The enforcement notice defines the land and property at Unit 4, The Old Stone Yard, Near Bank, Shelley, Huddersfield, Kirklees HD8 8LS as “the site”. However, in setting out the steps required to be taken, paragraphs 5(b) and 5(c) of the notice refer to “the land” rather than the correct defined term.
4. In accordance with section 176(1)(a) of the 1990 Act I can correct the steps required to be taken in paragraphs 5(b), and 5(c) of the notice to read:
 - (b) Return the site to its condition prior to the breach taking place; and
 - (c) Remove from the site all debris and resultant materials from carrying out the above steps.

I can make this correction without injustice to the appellant or the local planning authority.

Appeal on ground (f)

5. An appeal on ground (f) is brought on the basis that the requirements of the notice exceed what is necessary. Section 173(4) of the 1990 Act sets out the purposes which an enforcement notice may seek to achieve. They are either: (a) remedying the breach of planning control; or (b) remedying any injury to amenity which has been caused by the breach. Section 173(4) is clear that a notice can remedy the breach of planning control by: making the development comply with the terms of any planning permission which has been granted in respect of the land; by discontinuing any use of the land; or by restoring the land to its condition before the breach took place.
6. The alleged breach of planning control is, without planning permission, the erection of a workshop/storage building. Given the requirements of the enforcement notice as outlined, the purpose of the notice is to remedy the breach of planning control.
7. The appellant argues that the steps required by the notice exceed what is necessary, alleging that the concrete base on the site is lawful. In this regard they point to planning permission granted in 2018 for the change of use from stone yard to tree/log storage yard¹, and to a subsequent appeal at the site² stating that “what is lawfully at the site now is the concrete base because of its connection with the part implementation of the 2018 planning permission”. However, for the purposes of the appeal before me, the Council allege that the 2018 planning permission was never implemented in full, with the building at the site failing to comply with that permission. As such, the Council contends that the hardstanding is not lawful.
8. Notwithstanding the above, the breach of planning control as alleged in the notice is the erection of the workshop/storage building only. As such, to remedy this breach under Section 173(4), it is sufficient for paragraph 5(a) of the notice to require only the removal of this building. In requiring the land to be returned to its condition prior to the breach taking place under paragraph 5(b) of the notice, case law has established that in many cases the landowner will be the person with the best knowledge of what the previous condition was³.
9. To accurately reflect this, I can amend the steps required to be taken in paragraph 5(a) of the notice to remove reference to the removal of any footings or foundations as the inclusion of such requirements would exceed what is necessary. I can make this amendment without injustice to the appellant or the local planning authority.
10. The appeal on ground (f) therefore succeeds to a limited extent.

Appeal on ground (g)

11. An appeal on ground (g) is brought on the basis that the time period for compliance in the notice falls short of what should reasonably be allowed.
12. The enforcement notice gives 90 days for compliance. In arguing that this is unreasonable, the appellant refers to the requirement for a notice to be served on the tenant currently operating at the site to end their tenancy. However, limited

¹ 2018/62/90242/E

² APP/Z4718/N/23/3321121

³ *Ormston v Horsham RDC* [1965] 17 P&CR 105, *Al-Najafi v SSCLG & Ealing LBC* [2015] (CO/4899/2014)

information on this is provided. I have no tenancy agreement or other evidence before me which outlines a required notice period.

13. A longer compliance period is sought to allow the business at the site to wind down and find alternative premises. The appellant refers to the role this business plays in supporting the local, rural economy, and to the need to minimise the shock to this economy via a longer compliance period. However, little substantive information of the role the business plays in this regard has been provided.
14. The appellant further alleges the need for a longer period of time in order to schedule a suitable contractor, which will depend upon lead in times. There is nothing compelling before me to suggest that a builder could not be readily found and instructed, and the required works carried out, within the 90 day period specified. This would ensure that the identified planning harm is dealt with in the necessary expedient manner.
15. The appeal on ground (g) therefore fails.

Overall conclusion

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

C Rafferty

INSPECTOR