



Appeal Decision

Site visit made on 1 May 2025

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2025

Appeal Ref: APP/N3020/C/23/3331673

15 Paddock Close, Calverton, Nottingham NG14 6GJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act).
- The appeal is made by Mr Nathan Hinson against an enforcement notice issued by Gedling Borough Council.
- The notice was issued on 15 September 2023.
- The breach of planning control as alleged in the notice is without planning permission, a material change of use of the land from a residential use to a mixed use comprising residential and for the commercial storage of a metal freight container and portable metal cabin.
- The requirements of the notice are to:
 - (i) Cease the use of the land for the commercial storage of the metal freight container and portable metal cabin; and
 - (ii) Remove the metal freight container and portable metal cabin from the land.
- The period for compliance with the requirements is one month.
- The appeal is proceeding on the ground set out in section 174(2)(b) of the Act.

Decision

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

Appeal on ground (b)

2. An appeal on ground (b) is a claim that the matters stated in the notice (which may give rise to the breach of planning control) have not occurred as a matter of fact. The onus of proof in a ground (b) appeal is on the appellant and the test of evidence is on the balance of probability.
3. The appellant's evidence is that the metal container has now been removed and the portable cabin is staying temporarily in replacement of an asbestos garage that had been removed. The appellant further indicates that these do not relate to a relevant planning application.
4. Enforcement notices may not be issued until sometime after a breach is detected. In the meantime, appellants may make changes on site. Section 174(2)(b) of the Act is worded in the past tense, and the question is whether the breach had occurred by the date of issue of the notice. If the allegation had taken place on site, an appeal on ground (b) cannot succeed simply on the basis that activities or structures were removed or a use has ceased.
5. The Council and interested parties have provided Google street view images and photographs dated May, July and October 2023 of the structures within the garden area of 15 Paddock Close. The written evidence of the Council details that complaints had been received that the site was being used for commercial purposes and that the containers described in the allegation of the notice were present on site when the notice was issued.

6. From the evidence before me, I am satisfied, on the balance of probability, that the allegations stated in the notice have occurred as a matter of fact. I therefore conclude that the appeal on ground (b) should fail, and the appeal be dismissed.

Chris Baxter

INSPECTOR