



Appeal Decision

Site visit made on 2 May 2025

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th May 2025

Appeal Ref: APP/R4408/C/24/3338150

12 Hallgate, Thurnscoe, Rotherham S63 0TU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act).
 - The appeal is made by Miss Rachel Stewardson against an enforcement notice issued by Barnsley Metropolitan Borough Council.
 - The notice was issued on 2 January 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the Land to a mixed use of a dwellinghouse and the operation of a beauty parlour (including the provision of; artificial nails, eyebrows, eyelashes, and waxing treatments).
 - The requirements of the notice are to
 - (i) cease the unauthorised change of use of the Land as a beauty parlour cited in Paragraph 3.
 - (ii) Remove from the Land all equipment and materials associated with the use of the Land as a beauty parlour.
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2) (c) and (f) of the Act.
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Decision

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

Appeal on ground (c)

2. An appeal on ground (c) is that matters alleged at Section 3 of the enforcement notice, if they occurred, do not constitute a breach of planning control. The onus of proof in ground (c) appeals is on the appellant and the test of evidence is on the balance of probability.
3. An unsafe derelict garage was removed from the site and replaced with a multi-purpose garden room and storage space which the appellant states the Council informed didn't require planning permission. There is no dispute that the change of use to the alleged mixed use is a material one, thereby constituting development as defined at section 55 of the Act which requires planning permission. The carrying out of development without the required planning permission constitutes a breach of planning control. No compelling evidence has been presented to establish that the alleged use benefits from any planning permission.
4. Consequently, the appellant has failed to demonstrate that the alleged mixed use of a dwellinghouse and the operation of a beauty parlour is not a breach of planning control and therefore the appeal on ground (c) fails.

Appeal on ground (f)

5. An appeal on ground (f) is that requirements of the notice exceed what is necessary in order to remedy the breach of planning control or, as the case may be, the injury to amenity that is caused by the breach.

6. The appellants submission details a number of matters including comings and goings from the site, visitor hours, parking of vehicles, access, and the Councils enforcement policy. The majority of these matters are arguments that would fall under the consideration of a ground (a) appeal which is not before me to be considered in this appeal.
7. The notice requires the cessation of the unauthorised mixed use by ceasing the use of the Land as a beauty parlour and by removing equipment and materials associated with the beauty parlour. It is therefore clear that the purpose of the notice requirements falls within section 173(4)(a) of the Act – to remedy the breach of planning control. Anything less than the cessation of the use would not fully remedy the breach.
8. Accordingly, I find that the notice requirements are not excessive and the appeal on ground (f) fails.

Conclusion

9. For the reasons given above, I conclude that the appeal should fail on grounds (c) and (f), and therefore the appeal is dismissed and the enforcement notice should be upheld.

Chris Baxter

INSPECTOR