

Appeal Decision

Site visit made on 21 June 2025

by **Laura Renaudon LLM LARTPI Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 1 July 2025

Appeal Ref: APP/F4410/C/24/3357892

Former Whitehall Motors, Askern Road, Doncaster, South Yorkshire, DN5 0QT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Keith Millard against an enforcement notice issued by the City of Doncaster Council.
- The notice was issued on 24 October 2024.
- The breach of planning control as alleged in the notice is a material change of use by: (i) Subdivision of a warehouse (Use Class B2/B8) to a shop (Use Class E); and (ii) The siting of storage containers.
- The requirements of the notice are to (i) remove the retail use from the building and return to its original use commensurate to a warehouse; and (ii) remove from the land all shipping containers.
- The period for compliance with the requirements is two 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.

Summary Decision: the appeal is dismissed and the enforcement notice upheld with corrections and variations.

Preliminary Matters

1. Although the appeal is made only on ground (a) it is nonetheless appropriate for me to put the notice in order where possible. Although there is no appeal on ground (f) which is broadly to say that the requirements of the notice are excessive, if I am to uphold the notice then the first of its requirements would need amending. This is because no enforcement notice can require any particular use of land to take place. I should therefore strike from the notice the requirement to 'return [the building] to its original use commensurate to a warehouse'.
2. If that was its previous lawful use then the provisions of the 1990 Act would allow for the resumption of that use following compliance with the terms of the enforcement notice. However the notice cannot force the recipient to undertake any particular use of land if he does not want to. I am satisfied that such a change could be made to the notice without prejudicing the legitimate interests of either party.
3. The notice alleges a material change of use both by the subdivision of a warehouse to a shop, and by the 'siting' of storage containers. The breach of planning control is said to have taken place within the last 10 years.
4. Merely 'siting' an object on land does not of itself suggest that there has been any unauthorised change of use. Here the authorised land use includes some use for storage purposes and to a 'commercial' use, and the shipping containers now in situ are mostly advertised for use as a 24 hour self-storage operation. Although amounting to storage by the public rather than by a commercial operator, it is not immediately obvious how this amounts to an unauthorised change of use and the Council's case does not explain it.

5. Irrespective of whether any material change of use arises, however, it was apparent to me on inspecting the site that the storage containers cumulatively amount to 'buildings' for the purpose of the 1990 Act. Irrespective of the degree of physical attachment to the land, their cumulative size and permanence mean I am satisfied they are there as the result of building operations. At the relevant time, any unauthorised development resulting from building operations would have benefitted from a four year, rather than 10 year, limitation period against enforcement action. However from the documents before me it is obvious that the containers were not brought onto the site until late 2021 or early 2022, and thus the notice was issued well within the relevant period for doing so.
6. No other grounds of appeal have been raised, such as that the notice makes an incorrect allegation or that the Council was too late to take enforcement action when it did, and the appellant is professionally represented. I am satisfied that the appropriate corrections can be made to the notice without prejudicing the interests of either party. The corrections would not deprive the appellant of any realistic other ground of appeal. Although removing the allegation of a storage use, the existing form of the notice does not require that use to cease but only requires the removal of the shipping containers. That requirement would not change.

Main Issues

7. The notice was issued for a number of reasons, giving rise to the following main issues:
 - (i) The acceptability in principle of a retail use in this designated 'employment policy area';
 - (ii) The effects on the living conditions of neighbouring residents resulting from the activities at the site;
 - (iii) The effects on the area's character and appearance resulting from the placement of the storage containers and of an advertising banner; and
 - (iv) The effects of the development, particularly the storage containers, on highway safety and on the availability of vehicle parking areas on the land.

Reasons

Retail use

8. The site is an Employment Policy Area to which policy 4 of the Doncaster Local Plan 2015 – 2035, adopted in 2021, applies. That policy supports the retention of land falling within use classes B2 or B8, and seeks to retain land used for offices, research and development, and light industrial uses, for those purposes.
9. No change from those uses will be supported unless compelling evidence is provided to show that the buildings or land are no longer viable for those uses; that the proposed use is appropriate and does not adversely affect the operation of adjacent employment land or uses; and that alternative employment sites are accessible. Additionally any such different use would need to show either that it supports the existing or permitted employment uses on the site, that it is a specialist use appropriate to the site, or that it is a mix of commercial and/or community uses that provides clear community benefits.

10. Here, the Council raise objection to the provision of a retail operation on the site because that is not an employment use supported by the policy. The parties' cases discuss some sales of dog food and other goods although at the time of my site visit the building appeared to operate as a carpet sales site. Whilst the appellant makes the point that the retail use is not an intensive operation, no evidence, compelling or otherwise, is provided to show that the building is not viable for the employment uses otherwise supported by the Local Plan. It is not demonstrated how it supports other employment uses on the site, how it is a specialist use appropriate to the site, or that it provides clear community benefits.
11. Therefore the retail use is in conflict with the relevant Local Plan policy that seeks to support the retention of employment uses at the site, and is thus contrary to the development plan for the area on this issue of principle. There is no such objection in principle to the storage element of the use.

Living conditions of neighbours

12. The Council allege that the business's operation and noise level has a detrimental effect on residential amenities, and that the containers are poorly designed and harmfully impact neighbouring residents by creating a poor outlook.
13. Neighbours to the south of the site on the Manor Estate largely look out onto the rear of the buildings that have been erected around the site's perimeter. Those neighbours abutting the A19 Askern Road do have views of the shipping containers and would be cognisant of the comings and goings associated with the use. However, the shipping containers are some distance from the dwellings and are single-storey structures and I do not find the fact of their presence to unduly impact on neighbouring living conditions. I am not informed how, if at all, the retail element of the use results in significantly greater comings-and-goings or noise levels than could be expected from any permitted use.
14. The storage is said to be a 24-hour self-storage operation and I accept that disturbance could therefore accrue at unsociable hours, but that could potentially be made the subject of a planning condition restricting the hours of operation. On balance, having regard to the possibility of imposing relevant conditions, I do not find the alleged development to have unacceptable effects on the living conditions of neighbouring residents. The Local Plan seeks to protect those interests via policy 46 which among other matters seeks to ensure that development proposals have no unacceptable negative effects on the amenity of neighbouring land uses. I would not refuse permission on this basis.

Effects on the character and appearance of the area

15. Nonetheless although not producing unduly adverse effects on the immediate neighbours, the large numbers of shipping containers do serve to clutter up the site, apparently unnecessarily. The appearance of the site is more akin to a freight operation than to a general employment site in a mostly residential village.
16. Whilst conscious that prior to redevelopment the site was unkempt and derelict, I understand that a permission has been granted for its redevelopment and, although conditions have been breached, that permission has started and there is no suggestion that the authorised development would be unviable without the additional shipping containers. Policy 46 requires developments to be high quality and attractive, and to make a positive contribution to the area in which they are

located. That requires them to be sympathetic to local character and to ensure the coordination of good quality external works. The extensive addition of brightly coloured rows of shipping containers does not achieve this. The appellant concedes that the advertising banner is not acceptable.

17. The appellant has indicated a willingness to screen elements of the site where possible or to plant trees to the west of the site to offer a softening of the area. No particular screening or planting scheme is put before me and, given the extensive hardstanding areas across the site, I cannot be confident as to the success of any planting scheme. The need to retain the wide access points to the A19 means that any visual screening could achieve only limited results.
18. On balance therefore on this matter I consider that the addition of so many shipping containers has resulted in some detrimental impacts upon the character of the area, contrary to the relevant development plan policy. No proposals to reduce the number of shipping containers are before me, and so I do not consider whether a lesser number might be acceptable.

Effects on parking areas and highway safety

19. Concurrently with this appeal, another enforcement notice is upheld that alleges breaches of planning conditions imposed upon a planning permission granted on 16 January 2023. That permission, granted under reference 22/00552/FUL, allowed the use of the site for storage and warehousing and associated matters. Conditions were imposed requiring a vehicle turning space to be constructed and the provision of a parking area on the site. It also required the removal of parking areas provided to the front of the site. The provision of the shipping containers across large parts of the site compromises the ability to comply with those conditions.
20. The conditions were imposed for reasons of highway safety, namely to avoid the need for any vehicles having to reverse onto or from the highway which, as the A19, is a busy main road. The provision of adequate parking spaces on the site would be needed to avoid parking in surrounding streets adding to congestion and safety concerns.
21. The provision of the extensive amount of shipping containers means that what those conditions seek to achieve would be made very difficult, if not impossible, without the removal of at least some of them. At any rate, I have seen no proposal setting out how the containers might all be accommodated whilst still meeting the safety objectives reflected in the earlier planning conditions. At my site inspection I witnessed several vehicles parked outside the site to the road frontage that would need to reverse out in order to exit. Without the shipping containers, or so many of them, there would appear to be no difficulty in securing sufficient parking arrangements within the site in order to avoid any highway safety concerns arising.
22. The relevant policy on this issue is policy 13 of the Doncaster Local Plan, requiring among other matters that development does not result in unacceptable impact on highway safety. Although the appellant suggests that parking need has reduced and that movements are minimal, and has indicated a willingness to mark out more spaces as a matter of priority, no traffic assessment accompanies the deemed planning application and this is all insufficient to demonstrate that the shipping containers will allow for the safe and efficient movement of vehicles within the site, and sufficient parking, so as not to materially affect highway safety.

23. Therefore it has not been demonstrated that the development will ensure, as policy 13 requires, that it will not result in unacceptable impact on highway safety, and so is contrary to the development plan for the area on this issue.

Conclusion

24. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice, corrected to reflect the breach of planning control as I have found it, and varied to reflect the relevant time limits and to omit the requirement to reinstate the original use of the building, and shall refuse to grant planning permission on the deemed application.

Formal Decision

25. It is directed that the enforcement notice be corrected by deleting the existing paragraph 3 (the breach of planning control alleged) and replacing it with the following wording:

Without planning permission,

- (i) A material change of use of the land by the subdivision of a warehouse (Class B2/8 to a shop (Use Class E)) as shown for the purposes of identification only on the attached plan coloured blue; and*
- (ii) Operational development consisting of the provision of storage containers, as shown for the purposes of identification only on the attached plan as the lines delineated in orange.*

26. It is further directed that the enforcement notice be varied by:

- (i) First, adding, at the end of the first sentence of paragraph 4, “and the last four years respectively”; and
- (ii) Secondly, by omitting, from paragraph 5(i), the words “and return to its original use commensurate to a warehouse”.

27. Subject to those corrections and variations the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Laura Renaudon

INSPECTOR