



Appeal Decisions

Site visits made on 15 August 2023 and 7 July 2025

by **G Robbie BA(Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 August 2025

Appeal A Ref: APP/J4423/C/22/3308615

Land at Bawtry Road, Sheffield S9 1UA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
- The appeal is made by Ms Helen Robinson against an enforcement notice issued by Sheffield City Council.
- The notice was issued on 21 September 2022.
- The breach of planning control as alleged in the notice is:
 - (i) The erection of buildings on the Land shown in the attached photographs (in the Appendix hereto).
 - (ii) The laying of a hard surface on the Land shown within the red line on the Plan.
- The requirements of the notice are to:
 - i) Remove the buildings from the Land including where necessary dismantling the buildings before removal.
 - ii) Remove the hard surface from the Land.
 - iii) Following compliance with paragraphs 5 (i) and (ii) lay top soil on the Land to a depth of 100mm and sow the same with grass seed.
- The period for compliance with the requirements is: 2 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: Appeal A is dismissed and the enforcement notice is upheld with variations in the terms set out below in the Formal Decision.

Appeal B Ref: APP/J4423/C/22/3308629

Land at Bawtry Road, Sheffield S9 1UA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
- The appeal is made by Ms Helen Robinson against an enforcement notice issued by Sheffield City Council.
- The notice was issued on 21 September 2022.
- The breach of planning control as alleged in the notice is without planning permission, the change of use of the Land to the use for residential occupation and use for the storage of caravans, vehicles and wheeled trailers.
- The requirements of the notice are to:
 - (i) Cease the use of the Land described in paragraph 3 above.
 - (ii) Remove from the Land the buildings used for residential occupation (shown in the photograph exhibited in the Appendix hereto and in the approximate area as shown edged in purple on the attached plan).
 - (iii) Remove from the Land any caravans, vehicles and wheeled trailers stored on the Land.
 - (iv) Remove from the Land the fence (associated with the uses described in paragraph 3 above) shown in the photograph exhibited in the Appendix hereto and in the approximate area as shown edged in yellow on the attached plan.
- The period for compliance with the requirements is: Within 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.

Summary Decisions: Appeal B is dismissed and the enforcement notice is upheld in the terms set out below in the Formal Decision.

Decisions

Appeal A

1. It is directed that the enforcement notice is varied by:

- 1) At section 3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

After sub-paragraph (ii) ADD sub-paragraph (iii) 'The erection of a fence on Land shown within the red line on the plan.

and

- 2) At section 5. WHAT YOU ARE REQUIRED TO DO

DELETE sub-paragraph (iii) Following compliance with paragraphs (i) and (ii) lay top soil on the Land to a depth of 100mm and sow the same with grass seed.

And REPLACE with

- (iii) Remove the fence from the Land.
- (iv) Following compliance with paragraphs (i), (ii) and (iii) lay top soil on the Land to a depth of 100mm and sow the same with grass seed

2. Subject to the variations, 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.

Appeal B

3. 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

4. The site was visited in 2023 on an accompanied basis and in 2025 on an unaccompanied basis. Both appeals have been made solely on ground (a); *'that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted....'*
5. New versions of the National Planning Policy Framework (the Framework) were published in December 2023 and December 2024. The views of the main parties were sought in respect of the former, regarding the implications of the revised Framework to their respective cases and I have taken these into account in my determination of these appeals. With regard to the latter, I am satisfied that other than changes to paragraph number and paragraph structure between the current and previous versions of the Framework, the sections relevant to the matter before me have not materially changed. References to Framework paragraphs hereafter are to the December 2024 version. I have determined the appeals accordingly.

6. The notices refer to saved policy LR5 of the Sheffield Unitary Development Plan¹ (UDP) and Policy CS47 of the Sheffield Development Framework Core Strategy² (CS). Both are of considerable age. The Council has advised that the Draft Sheffield Plan (DSP) was submitted for examination in October 2023, for which the examination process and hearings were on-going through 2024. A further round of work to identify additional land for new homes and housing followed correspondence from the examining Inspector in February 2025 with hearings proposed to recommence in September and October 2025.
7. The Council has confirmed that UDP saved policy LR5 and CS Policy CS47 remain the relevant policies in relation to proposals affecting designated open space. The Council anticipates that Policy GS1 of the emerging DSP will replace these once the DSP is formally adopted but the policy was subject to objections. In response to the objections received and following discussions during examination hearings the Council undertook to redraft the policy wording. As such, the provisions of emerging DSP Policy GS1 carry very limited weight and I have determined the appeals accordingly.
8. Reference has been made by the appellant to a separate application for planning permission³ to retain a residential security building at the appeal site, to also include fencing, gated vehicular access, hardstanding and landscaping. The application was refused in November 2022.

The Notices

9. The notices seek to attack alleged operational development (appeal A) and a material change of use of the land (appeal B). The latter, within its requirements requires the removal from the land of 'the fence (associated with the uses described...)...' elsewhere within that notice. There is no such requirement within appeal A's notice despite it relating to alleged operational development.
10. I am satisfied that correcting the allegation and the requirements of the notice in respect of appeal A to include reference to the fence would not cause injustice to the appellant as these requirements are already included within the notice's requirements in respect of appeal B. I shall therefore correct the alleged breach at section 3(i) in respect of appeal A's notice to include reference to the fence. I shall also correct the requirements at section 5 of appeal A's notice to also include reference to the fence.

Appeals on hidden ground (e)

11. The notices were appealed solely on ground (a); 'that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted....'. No cases have been made in respect of the other grounds of appeal set out at section 174 of the Act.
12. An appeal on ground (e) may be made if it is felt that copies of the enforcement notice have not been served as required by section 172 of the Town and Country Planning Act 1990 (as amended (the Act)). Section 172(2) requires that a copy of an enforcement notice be served on (a) the owner and on the occupiers of the land to

¹ Adopted March 1998

² Adopted March 2009

³ LPA Ref No: 21/04954/FUL

which it relates; and (b) on any other person having an interest in the land which, in the opinion of the local planning authority, is materially affected by the notice.

13. Whilst the appellant has not appealed on grounds other than ground (a) it can be the case that 'hidden' grounds of appeal exist where in making a case in respect of one ground of appeal, a case may then be made in connection with another. In this instance the appellant states that the area of land enforced against by the notices goes beyond the extent of her ownership.
14. The appellant's responses to the Planning Contravention Notices (PCNs) clearly stated that there were no other persons, companies or partnerships that had an interest in the land. The Council are correct to note the legal implications of providing false information in responding to a PCN and I have been given no further reasons to doubt either the basis upon which the PCN response was provided, or the Council's conclusions in respect of this matter.
15. Based upon this information the Council's service of the notices upon the appellant at a (stated) address in Rotherham and to the owner and occupier at the appeal site was prudent, notwithstanding the responses to the PCNs. Other than unsubstantiated suggestions that there are other owners of land included within the notices' effective areas, I have no reason to conclude that the notice was incorrectly served and consequently, the appeals on 'hidden' ground (e) therefore fail.

The appeals on ground (a)

Main Issues

16. The main issues in both Appeal A and Appeal B are the effects of the alleged breaches of planning control upon:
 - the provision of open space, sporting and recreational facilities; and
 - the character and appearance of the appeal site and surrounding area.

Reasons

The provision of open space, sporting and recreational facilities

17. At the time of the initial visit, the majority of the site was laid to a mix of hard surface comprised of crushed and compacted hardcore and an area of more smoothly surfaced hardstanding in a position approximating to that of the tennis courts as annotated on plans submitted by the appellant⁴ and as denoted by an area of lighter green colouring on the plan accompanying the notice. Placed within the site were also a number of portable buildings of varying sizes and an internal timber panel-and-concrete post fence. Evidence also shows a range of vehicles, trailers and caravans within the area shown on the notice.
18. The land within the bounds of the notice was previously used as sports facilities, hence the notation on plans of 'tennis courts' and 'bowling green'. The appellant's submission repeats this brief description of the site's history, referring also to a toilet block and explaining that the wider site had not been used for a considerable period prior to purchase. No evidence, other than the area of hardstanding

⁴ Appendix C

described above, of the former sports uses were evident at the point of the visits to the site and submissions indicate that these sports facilities have been unused for a considerable length of time. There are however sports facilities on either side of the appeal site comprising of a range of sports pitches and facilities buildings.

19. In respect of appeal A, the operational development comprises the laying of hardstanding, in the form of compacted hardcore and road-planings from the entrance to the site up to, and beyond, the pre-existing area of hardstanding. The buildings referred to within the notice are referenced as photographs appended to the notice. Thus, the buildings included a large pre-fabricated single storey building and a smaller portable cabin-type building. A further large static caravan was also within the bounds of the notice's area, albeit within an area of land that was further enclosed by a timber panel / concrete post fence.
20. Subsequently, it appears that the fence, static caravan and other buildings have been removed from site, leaving just the largest of the pre-fabricated buildings on site. At the time of the initial visit, this building was occupied for residential purposes, with some items of residential paraphernalia outside the building. The former 'bowling green' area was enclosed by a low post-and-wire fence.
21. The supporting text to UDP saved Policy LR5 describes Sheffield as being a 'relatively green city' and as being 'well provided with open space generally'. Although the UDP is now of some age, I have not been presented with any evidence that would lead me to question these statements. Policy LR5 thus seeks to protect open space from built development, from which the Council specifically refer to LR5(g) and LR5(i); the development of open space would harm the character or appearance of a public space and it would result in over development or harm the character of an area. A more recent expression of development plan policy, albeit also of some age, is set out at CS Policy CS47 which again seeks to safeguard open space and sets out a range of criteria and considerations against which such proposals will be assessed.
22. There are traces of the former open space, recreational and sporting nature of the appeal site visible within the site and from documents submitted to accompany the appeals. Site plans and drawings indicate positions of former hard-surfaced tennis courts and a bowling green which, by cross-referencing with visible site features on photographs and from site visits, remain capable of understanding by the viewer.
23. It may be that these sports facilities have been unused for a considerable period of time but it is commonly understood that such facilities remain capable of consideration as a sports facility and playing field if they have been so used previously. Neither party has provided evidence of whether or not the alleged development subject to the notices would result in a quantitative shortage of informal or formal open space, or a shortage of playing fields. Nevertheless, without the detail of the provision of equivalent or better replacement open space and playing field provision, it has not been adequately demonstrated that the acts of development set out and attacked by the notices would not compromise the longer-term resumption of such leisure, recreational or sporting use within the appeal site, or that the loss of these facilities would not result in a shortage of such within the local area.
24. Nor has it therefore been demonstrated that the loss of the appeal site's open space and playing field capabilities could be mitigated by replacement within the

site or elsewhere, or that the appeal site has been formally identified as surplus to current requirements. Whilst its current condition and recent past use might indicate that to be the case, it has not been formally or adequately demonstrated to be so. It is also pertinent to note that the site lies within a stretch of Bawtry Road which is as much defined by sporting facilities and provision located along it as it is by adjacent commercial or residential uses.

25. The appellant has stated that it would be premature for the Council to pursue an enforcement investigation whilst there was an undetermined application for planning permission for development within the appeal site. However, that application has since been determined and refused. Reference has also been made to the appellant's attempts to seek alternative designation for the appeal site through the local plan process and the emerging DSP. The Council have provided clarity regarding the status of the development plan policies referred to in the notices and the emerging DSP more generally. I have no evidence before me that the appeal site's development plan allocation status has changed through this process but given the current stage of the emerging DSP it carries very limited weight at this stage.
26. There may well have been longer term aspirations for the appeal site, but those are more properly explored through the local plan process rather than through individual applications for planning permission or, as in these cases, applications for planning permission deemed to have been made by virtue of appeals lodged under ground (a). I have only anecdotal evidence before me as to the success of the development alleged in the notices in preventing instances of anti-social behaviour, or indeed to the extent of such behaviour prior to the development being carried out. At the time of the most recent visit to the site, whilst some of the buildings were still present, the site appeared secure and given undergrowth at the site entrance, seemingly not in current or extensive occupation. In that context, there did not appear to be any obvious evidence of anti-social behaviour in the form of tipped waste or other items. Whilst not necessarily the 'full picture' I have no compelling reasons before me to conclude that not granting planning permission for the development would result in degradation of the site's appearance or a return to the anecdotal levels of anti-social behaviour alleged by the appellant.
27. As at the time of a previous visit, the public right of way along the northern boundary of the site from the Bawtry Road junction was again impassable more recently due to the depth of undergrowth. Any benefits that the occupation of the site for a residential purpose ensures better upkeep and a tidier site are also anecdotal and the benefits limited.
28. The appellant's statements suggest a temporary two year permission would allow the appellant to explore more fully through the local plan process the site's development plan status. This would also, the appellant states, allow for the continued site monitoring and security benefits that it is claimed have arisen from residential occupation of the buildings within the site. Whilst such an approach would establish a limited time frame to the residential occupation of the site, it would not negate the development plan policy requirements to demonstrate that it would not result in a shortage of informal or formal open space within the wider local area. I am not therefore persuaded as to the acceptability of such an approach and conclude that the appeal schemes set out within appeals A and B are in conflict with UDP saved Policy LR5 and CS Policy CS47.

Character and appearance

29. The appeal site was, I am led to understand, untidy and subject to various forms of anti-social behaviour prior to the development described in the notices. Further, as a former playing field including former tennis court and bowling green that had not been used for some period of time, it had become untidy, overgrown and increasingly derelict.
30. Although the appellant asserts that the presence of 24-hour residential occupation of the appeal site aided the security of the site and prevented such behaviours, the photographs submitted by both parties during the course of the appeals and my own observations indicate to me that such efforts have come at the expense of the character and appearance of the site and surroundings. The laying of an extensive area of hardstanding in the form of crushed road planings imbues the site with an unnecessarily industrial appearance. This was not helped by the storage of various vehicles, vehicle bodies and caravans at various times within the site, particular along its northern boundary and visible from the west along Bawtry Road.
31. Although not all present on site at the time of the site visits, the establishment of transient storage uses on a longer-term basis is at odds with, firstly, the verdant site frontage of the adjacent sports grounds to the north (east of the site entrance from Bawtry Road) and secondly the character of the prevailing sporting and recreational facilities on either side of the site. So too, the large flat roofed portable building that was, at the time of the initial site visit, clearly occupied for residential purposes. Other than any incidental benefits to security that its occupation might have had, I have not been made aware of its specific security purposes. Furthermore, notwithstanding the presence of a residential development a short way away to the north of Bawtry Road, the appeal site and its immediate surroundings are commercial and sporting in character and appearance with functional sporting interiors, and landscaped frontages. The establishment of residential occupation, and the ad-hoc storage of vehicles, vehicle bodies, caravans and other items in this area and in this context, would be incongruously out of character and appear unnecessarily isolated within the neighbouring land uses.
32. Temporary permissions would lessen the longevity of the harm to character and appearance that I have found but would not do so in respect of the immediate impact of the buildings or the items referred to within the wider area of land subject to the material change of use. Nor would it do so in respect of the storage of vehicles, vehicle bodies and caravans, the visual effects of which would be incongruous in this setting, and immediate in their visual impact. For these reasons, the appeal schemes set out within appeal A and appeal B are contrary to the aims and provisions of UDP saved Policy LR5 and CS Policy CS47.

Conclusion

Appeal A

33. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

34. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

G Robbie

INSPECTOR