



Appeal Decision

Site visit made on 23 July 2025

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2025

Appeal Ref: APP/Z4718/C/23/3330267

**Land and property at former Spenborough Wastewater Treatment Works,
Smithies Lane, Heckmondwike WF16 0PN**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Howard Cook against an enforcement notice issued by Kirklees Metropolitan Council.
 - The notice was issued on 18 August 2023.
 - The breach of planning control as alleged in the notice is without the benefit of planning permission, the material change of use of the site to a mixed-use comprising educational, public events use, the keeping of animals and storage (including but not limited to containers, lorry backs, metal sheeting, metal beams, wooden pallets, cannisters, building materials, vehicles and plant/machinery); and operational development consisting of the erection of 15 buildings, the erection of fencing, the formation of hard surfaces (car parking area), erection of a bridge and engineering operations to create a pond to facilitate the mixed-use.
 - The requirements of the notice are to:
 - a) Cease the use of the land for mixed use educational, public events use, the keeping of animals and storage
 - b) Remove from the land all stored materials/items including containers, lorry backs, metal sheeting, metal beams, wooden pallets, cannisters, building materials, vehicles, and plant/machinery
 - c) Dismantle and remove all of the buildings, including any foundations/base
 - d) Dismantle and remove the fences
 - e) Dismantle and remove the hard surfaces
 - f) Return the land to its previous levels and contours prior to the engineering operations being carried out
 - g) Dismantle and remove the bridge
 - h) Remove any resultant debris from carrying out the above steps and return the land to its condition prior to the development taking place.
 - The period for compliance with the requirements is 150 days.
 - The appeal is made on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The enforcement notice is quashed.

Reasons

2. Following my visit and review of the submissions, I wrote to the main parties with a number of questions about the allegation. Both parties responded and those responses have been considered.
3. The notice alleges that there has been: “Without the benefit of planning permission, the material change of use...to a mixed-use comprising educational, public events, the keeping of animals and storage...and operational development consisting of the erection of 15 buildings... fencing...hard surfaces...a bridge and...a pond to facilitate the mixed use.”

4. As I set out in my letter, at my visit I saw that the buildings identified as “1 Security” and “2 Back up Security” on the appellant’s site plan (1001/P1) are likely to be in residential use. Appendix 1 to the appellant’s statement of case sets out the purpose of each building on the land, and it says that building one “has facilities for personnel to permanently remain on site and stay overnight in order to protect the estate” and building two has facilities for an additional person to remain on the site overnight.
5. There is no dispute that buildings one and two are used by “security staff.” However, it does not appear that the buildings have a typical “security” use; in particular, building one, which does not appear to be used solely as an office building where security staff are employed to sit and watch CCTV screens for example. It rather appears that building one provides residential accommodation with facilities for persons who work on the site to live there and be on hand for the animals and general security purposes at all times.
6. In response to my questions, the appellant stated that buildings one and two were erected on site to provide 24-hour security through residential use due to the ongoing and frequent criminal acts that have occurred on site, and such residential use has been ongoing for more than four years. Albeit the appellant has not provided an explanation about what the use consists of.
7. Although the appellant stated that building two is a mobile home/static caravan, the Council are correct that I have no details which demonstrate that it meets the legal definition of a caravan contained within section 29 of the Caravan Sites and Control of Development Act 1960 and Caravan Sites Act 1968.
8. Nevertheless, whether either building could be described as a dwellinghouse, and whether building two is a caravan, it appears likely that the material change of use of the land includes residential use as one of the primary uses.
9. It also seems likely that this use was taking place when the enforcement notice was issued, given that the buildings were there when the notice was issued and that this “security use” is referred to in the appeal submissions, with the floor plans in the submissions showing staff sleeping quarters, bathrooms and amenity areas. Furthermore, there is no evidence of them being in a different use.
10. The allegation should refer to all the components of the mixed use. This is because, where there is a mixed use, it is not open to the Council to decouple elements of it; the use is a single mixed use with all its component activities.
11. I have a duty to get a notice in order if I can. Pursuant to section 176 of the Act I have power to correct any defect, error or mis-description provided I am satisfied there will be no injustice to either party.
12. It would have been possible to correct the notice without injustice to specify the items being stored to include the military vehicles and glider and to attach a plan identifying the 15 buildings.
13. However, if I were to correct the allegation to include the residential use identified above, but not the requirements, it would result in deemed planning permission being granted by virtue of section 173(11) for the residential use of buildings one and two if the requirements are complied with. This would cause the Council injustice.

14. If I were to correct the allegation and requirements, this would expand the scope of the enforcement notice, making it more onerous to comply with, thereby causing injustice to the appellant. Moreover, a full description of the alleged mixed use, including the residential use, may have changed the Council's and appellant's case on ground (a), particularly, given the appellant's stated need for "security." The appellant may have also chosen to make their case on other grounds.
15. Accordingly, I do not consider that correcting or varying the enforcement notice is possible without causing injustice. Therefore, it should be quashed as inaccurate and incapable of correction without injustice to the Council or the appellant. Since this is a case where the Council have misdescribed the alleged breach, they may be able to issue another enforcement notice in exercise of their 'second bite' powers under section 171B(4).

Conclusion

16. For the reasons given above, I conclude that the enforcement notice does not specify with sufficient clarity the alleged breach of planning control. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act (as amended), since injustice would be caused were I to do so. The enforcement notice is invalid and will be quashed.
17. In these circumstances, the appeals on the grounds set out in section 174(2) (a) and (g) of the 1990 Act (as amended) do not fall to be considered.

Felicity Thompson

INSPECTOR