



Appeal Decision

Site visit made on 8 December 2025

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 19 December 2025

Appeal Ref: APP/P4415/C/24/3342687

Land at the rear of 17-21 Brinsworth Lane, Rotherham S60 5BS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Kevin Edwards (Stop Inn Time) against an enforcement notice issued by Rotherham Metropolitan Borough Council.
 - The notice was issued on 28 March 2024.
 - The breach of planning control as alleged in the notice is: Without the required planning permission, the use of land and buildings as drinking establishment and erection of buildings, large umbrellas, canopies and marquee shown approximately in the blue on the attached plan above.
 - The requirements of the notice are to:
 - (i) Cease the use of the land/buildings as a drinking establishment.
 - (ii) Remove the buildings, large umbrellas, canopies and marquee permanently from the site which are within the blue edge of the plan above.
 - (iii) Remove tables, chairs, benches, umbrellas and any other drinking establishment paraphernalia permanently from the site within the red edge of the plan above.
 - The periods for compliance with the requirements are:
 - (i) Within 1 month from the date that the notice takes effect.
 - (ii) Within 3 months from the date that the notice takes effect.
 - (iii) Within 3 months from the date that the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (e) and (f) 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.
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Decision

1. 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 on ground (e)

2. The main issue concerns whether copies of the enforcement notice (EN) were served as required by section 172 of the Town and Country Planning Act, 1990, as amended (the Act); and if not, whether the appellant, or the person who was not served as required, have been substantially prejudiced by the failure to do so.
3. The appellant submits that the EN was not served on any occupiers of the flats above 17-21 Brinsworth Lane, despite the occupier at 21 Brinsworth Lane referring to themselves as an interested party when making previous representations. Occupiers above 17 and 19 Brinsworth Lane are also persons with an interest in the Land and are materially affected by the EN. He also contends that as a licence holder of 17 Brinsworth Lane he should also have been served with the notice at 'Stop Inn Time'. However, the annex to the EN states that the EN was sent to his former address in Sheffield.

4. The appellant also advises that the EN was displayed on the back of the Bistro known as 'Stop Inn 21', but the Notice includes Land to the rear of 19 and 21 Brinsworth Lane. 21 Brinsworth Lane is a separate planning unit with its own title number. He states that he has a licence for drinking outside at those premises. The EN should have been posted or affixed to the rear of 17 or 19 Brinsworth Lane instead.
5. The Council advised in response, that they considered Land Registry documentation before issuing the EN and checked the land registry titles on the day that the EN was served. They are satisfied that a copy of the EN was served to all owners (lease and freehold) and the occupier of the Land. Those owners and occupiers included the freehold title owner of 17 and 19 Brinsworth Lane and 21 Brinsworth Lane, including Mr Edwards, the appellant, who had a copy of the notice delivered to him in person. The Land, the subject of the EN, does not include the flats above 17, 19 and 21 Brinsworth Lane, and thus the occupiers of those flats do not have an interest in the Land for the purposes of s172 (2) of the Act. The Council state that no other person was identified to the Council as having a pecuniary interest in the Land.
6. The appellant does not refute the Council's response. The EN relates to all the Land to the rear of Nos. 17-21 Brinsworth Lane and does not need to relate to a planning unit. The EN does not relate to the flats above those properties, albeit the occupiers of those flats may have an interest in the use taking place on the Land. However, they are not owners or occupiers for the purposes of s172(2). The appellant was clearly served with the EN, he is aware of the EN and has appealed it.
7. From the evidence before me I am satisfied that the EN was correctly served and as required by s172 of the Act. The appeal on ground (e) fails.

Appeal on ground (a), deemed planning application

Background and Planning History

8. The appeal site comprises Land and buildings to the rear of 17-21 Brinsworth Lane which are currently/or have been in use as a drinking establishment in connection with the Micro Pub, known as Stop Inn Time at 17 Brinsworth Lane and the Coffee Shop/Bistro, known as Stop Inn 21 located at 21 Brinsworth Lane. At the time of my visit No 19 was in use as a Hair Salon and the appellant's evidence is that the Land to the rear of No 19 is used for vaping/smoking.
9. No 17 was granted planning permission for change of use to a micro pub (Use Class A4), subject to conditions in 2019. Following the construction of an outside seating area, including a marquee during the COVID-19 pandemic, a retrospective application for the change of use of the rear yard area and outbuildings to a drinking area, with associated erection of seating areas, canopies and marquee and the cladding of outbuildings at Land to rear of Nos.17-21 Brinsworth Lane was refused planning permission in October 2022. A subsequent appeal described in the Appeal Decision as "outside under cover seating area" was dismissed in October 2023¹. The EN, the subject of this appeal, was served on 28 March 2024.

¹ APP/P4415/W/23/3317968.

10. In an appeal on ground (a), the description of the deemed planning application is derived from the allegation in the EN. The allegation in this case is the use of land and buildings as drinking establishment and erection of building, large umbrellas, canopies and marquee as identified on the plan attached to the EN. There is no ground (b) appeal, that the development has not occurred as a matter of fact, and there is no dispute that until 2023 there was a marquee and canopies on the Land. The marquee and canopies have now been removed and replaced with a wooden structure which provides seating for up to 32 patrons. This wooden structure adjoins an original outbuilding which has been referred to as an occasional "Function Room." This room now has a pool table within it and the appellant advises it is used on occasion to serve food for special evenings at the micro pub. The appellant states that he has removed all outside seating and now only utilises the enclosed wooden structure he has built as an extended drinking area to the micro pub, and that the additional seating is necessary to make the micro pub viable.

Main Issue

11. The main issue is the effect of the development on the living conditions of the occupiers of neighbouring properties, with particular reference to noise and disturbance.

Reasons

12. The appeal site forms part of a short terrace/parade of commercial and retail premises, some with residential flats above, within a Local Centre. Beyond the Local Centre the surrounding area is predominantly residential, consisting of two-storey semi-detached dwellings.
13. On my site visit I noted that the marquee and canopies have been removed from the Land. Chairs were stacked to the rear of 21 Brinsworth Lane (Café/Bistro, Stop Inn 21), and the appellant advised that this was because it was winter, and nobody would sit out at this time of year. The open area to the rear of Nos.17 and 19 has been laid with artificial grass matting and outside lights have been strung above it. A Perspex roof has been constructed to create a covered walkway between the micro pub at No 17 and the newly constructed building to the rear. The building is of a timber construction, with an open curtained doorway, windows and a Perspex roof. It provides fixed seating for 32 patrons and is attached to an original outbuilding (now in use as a pool room, food serving area for special events).
14. The upper floors above the commercial/retail units have windows that overlook the new seating area within the building and its surrounding grass carpet area. The appellant advises that the first floor of No 17 is used by himself as offices and that of No 19 is associated with the hairdresser. However, No 21 is a residential flat, and there are also other residential flats within the terrace. To the rear of the appeal site are the private rear gardens of residential properties fronting onto Pringle Road.
15. I recognise that the appellant has sought to address the noise complaints and concerns of neighbouring residents, by constructing a wooden building to provide indoor seating. He also says he has banned nuisance customers. However, it is still necessary for customers to cross the open rear yard to access the building, and there is no fixed door on the new building, only a curtain. In the absence of

any evidence to demonstrate otherwise, there would be noise and disturbance resulting from both customers making their way to and from the building, as well as from within the building itself which is not fully enclosed and has a Perspex roof through which noise will be emitted. The appellant believes that since the building has been constructed there have been no further complaints. However, an objection to the development has been received in response to this appeal from a neighbouring resident, advising that they remain disturbed by the use of the outside area/building. Furthermore, the outdoor lighting and grass carpet around the building are inviting for customers to loiter, and it would be difficult to control how customers utilise this area as they move between the micro pub and new seating area.

16. I have had regard to the appellant's suggestion that conditions could be imposed to ensure the building is made soundproof and to restrict hours of use. However, no sound insulation scheme has been put forward for consideration. Moreover, the wooden building is detached from the micro pub and so there will always be disturbance from people entering and leaving that building through the open yard as they visit the bar, utilise the toilets etc. The Land the subject of this appeal is overlooked by windows in neighbouring residential properties. Its intensive use as a drinking establishment, including evening use, six days of the week and in such close proximity to residential properties, is undoubtedly a source of disturbance to neighbouring occupiers. I appreciate that there are other commercial premises in the locality, with occasional disturbance from the service yard to the adjacent supermarket. However, those other uses do not justify the development the subject of this appeal.
17. I have taken into consideration the appellant's comments in response to the previous Inspector's concerns regarding the noise assessment which was carried out to support the retrospective planning application for this use and subsequent appeal¹. That noise report is not before me in this appeal, and I note that the appellant has chosen not to commission a further report to address those previous concerns nor the modifications he has made to the original scheme.
18. I recognise the appellant's desire to expand his business. However, I have not been provided with any substantive evidence that would demonstrate that the lawful premises are not viable. I am also mindful that when the micro pub was granted consent in 2019, it was on the basis that there should be no outside drinking area. Whilst there was some relaxation of that condition during the COVID-19 Pandemic, considering the concerns that have been raised by neighbouring residents, it seems to me that the Council's decision to not to permit an outdoor seating area was reasonable and necessary.
19. I conclude that the development has a harmful effect on the living conditions of the occupiers of neighbouring properties, with particular reference to noise and disturbance. The development is contrary to Policy SP52 of the Rotherham Local Plan Core Strategy 2013-2028, adopted 2014. This policy requires consideration to be given to the potential noise likely to be generated by a development; the requirement for a Noise Assessment to enable clear decision making on any planning application; and for developments likely to cause pollution to only be permitted where it can be demonstrated that mitigation measures will minimise potential impacts to levels that protect health, environmental quality and amenity.

20. It would also be contrary to paragraph 130(f) of the National Planning Policy Framework that seeks to create places that are safe and promote health and well-being with a high standard of amenity for existing users.

Other Matters

21. There is no evidence to suggest that the premises are a fire risk, and the appellant has confirmed that he has a fire safety certificate. There is also no demonstrable evidence that the use of this Land gives rise to anti-social behaviour by reason of increased littering or vermin. Nevertheless, those matters are neutral in the planning balance.

Conclusion on ground (a)

22. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal on ground (a) fails.

Appeal on ground (f)

23. The issue is whether the requirements are excessive to achieve the purpose(s) of the notice.
24. Section 173 of the Act indicates that there are two purposes which the requirements of an enforcement notice can seek to address. The first is to remedy the breach of planning control that has occurred and the second to remedy any injury to amenity which has been caused by the breach.
25. The appellant suggests that the requirements to cease the use of the Land as a drinking establishment and to remove the buildings, etc is excessive, as the development could be controlled by conditions. However, I have concluded on ground (a) that there is no substantive evidence that planning conditions would mitigate the harm I have identified. The purpose of the enforcement notice is to remedy the breach of planning control and only ceasing the use of Land and removal of the buildings would remedy the breach and achieve the purpose of the notice.
26. The appeal on ground (f) fails.

Overall Conclusion

27. 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).

Elizabeth Pleasant

INSPECTOR