Planning Inspectorate

Appeal Decision

Site visit made on 2 October 2025

by Grahame J Kean BA (Hons) Solicitor, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 January 2026

Appeal Ref: APP/J4423/C/25/3371920
Land at Old Mayfield School, David Lane, Sheffield S10 4PH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Sebastian Brown against an enforcement notice issued by Sheffield City Council.
- The notice was issued on 25 July 2025.
- The breach of planning control as alleged in the notice is: without planning permission the carrying out of operational development on the Land comprising the erection of a building,
- The requirements of the notice are:
  - i. Demolish/Remove the Building, (shown in the Appendix to this notice), from the Land.
  - ii. Remove any materials from the Land resulting from compliance with step i.
- The period for compliance with the requirements is: 2 months from the date this notice takes effect.
- 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.

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.

Preliminary matter

2. A small wood store is present by the side of the building. The appellant claims it is not clear if this is included in the notice. The Council did not respond to this part of the appellant's statement. I think it is clear from the plan and the photographs attached to the notice together with the wording thereof, that the red line delineating the "Land" encompasses only the footprint of the outbuilding itself and it is also clear that the store is not an integral part of the building. For the avoidance of doubt the notice is not vague and does not suffer from a lack of clarity in informing the recipient what the breach is and what action is required.

Ground (a)

Main Issues

3. The site is in the Green Belt (GB) and the reasons for issuing the enforcement notice relate to this designation. Further, as recognised in the appellant's statement, there is a presumption in favour of sustainable development set out in the National Planning Policy Framework (NPPF), which is an important material consideration and applies to all local plans and decisions. Paragraph 11 states:

   "For decision-taking this means:

• Approving development proposals that accord with an up-to-date development plan without delay; or

• Where there are no relevant development plan policies or the policies which are most important for determining the application are out of date, granting permission unless:

o The application of policies in this Framework that protects areas or assets of particular importance provides a clear reason for refusing the development proposed; or

o Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole."

4. The main issues are:

a) whether the building is inappropriate development in the GB and, if so, the effect on its openness;

b) if it is inappropriate development, whether the harm by reason of inappropriateness, and by reason of any other identified harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development; and

c) if it is not inappropriate development, whether the development otherwise accords with the development plan and other material considerations.

Whether inappropriate development

5. Paragraph 154 of the NPPF states that development in the GB is inappropriate subject to limited exceptions, including (paragraph 154 g) *"limited infilling or the partial or complete redevelopment of previously developed land…whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt."*

6. The reasons for issuing the notice relate to saved policies in the Sheffield Unitary Development Plan (UDP). UDP Policy GE1 states that development in the GB should avoid unrestricted growth of built-up areas, merging of existing settlements, urban development in the countryside or compromising urban regeneration. UDP Policy GE3 does not support new buildings in the GB save in very special circumstances, whilst the supporting text gives support to diversifying the rural economy and providing for local needs. UDP Policy GE4 states that siting, scale and character of GB development should be in keeping with the surrounding area.

7. Existing development plan policies are not necessarily out-of-date just because they pre-date the NPPF. Due weight should be given to them, according to their degree of consistency with the NPPF (paragraph 232). Policy GE1 is clear enough in seeking to avoid certain effects of development on the GB, however it should be read in light of section 13 of the current version of the NPPF.

8. Policies GE1 and GE3 were considered in an appeal decision (Loxley Works decision)[1], cited by the appellant who seeks to establish that previously developed land (PDL) is an exception "*where the construction of new buildings in the Green*

[1] Appeal APP/J4423/W/20/3262600 – Former Loxley Works, Sheffield, 10 August 2021.

Belt is not inappropriate as per paragraph 149(g) of the NPPF". Paragraph 149(g) was replaced in the current December 2024 version of the NPPF but, as the appellant later accepted, it is the new paragraph 154g) that must be considered[2].

9. For the avoidance of doubt, it is not argued by the appellant that NPPF, paragraph 155 is applicable (that contains a further set of criteria where development is not regarded as inappropriate, including a PDL-related criterion). He asserts that the entire wider development is built within the former school site and therefore it all constitutes previously developed land. The appellant also contends that, referring to paragraph 154(g), the development is limited infilling because the site is PDL "*as confirmed"* in appeal decision 3284757.

10. The Inspector in appeal decision 3284757 found that the proposed scheme in that appeal[3] did not go beyond the residential curtilage of The Hall (a separate unit from the Cottage) and being within the residential curtilage and on the former playground, was on previously developed land. As that decision explained:

    "The Old Mayfield School, built in the late 19th century, has been converted to three dwellings in accordance with planning permission 19/01513/FUL (PP1513); unit 3 is The Hall and is the subject of the appeal. The Hall is the north-east half of the former school building and the property includes, at the rear, the former playground and an outbuilding, a former play shelter (paragraph 4)."

11. The Cottage (unit 1) is one of three dwellings resulting from alterations, extensions and part change of use of an old school. The conversion of the school was approved under planning permission 15/03334/FUL. The scheme was implemented under a later permission in 2019, Ref 19/01513/FUL and subject to conditions. The current appeal site is not the same site as in appeal decision 3284757 from which it cannot be definitively shown that it, the current site, is PDL.

12. The current appeal site, before erection of the shed, was part of the approved open car park serving the 3 new dwellings. I agree with the Council that it sits outside the defined garden area of the Cottage (Unit 1), beyond a dividing garden wall, on an open area at the front of the property and the parking spaces.

13. All that said, the Council does not dispute in terms that the appeal site is PDL for the purposes of Paragraph 154(g) of NPPF. I would agree it is PDL. The case for the appellant on this issue then boils down to the contention that the unauthorised development is not inappropriate development in the GB due to the applicability of part g) of paragraph 154 of the NPPF. It is said that the harm to the openness of the GB is minimal and typical for an established residential location such as this. Very special circumstances therefore would not need to exist to grant permission.

14. The question therefore is whether the redevelopment of previously developed land causes substantial harm. If so, the exception does not apply. In addition, the appellant claims that the unauthorised development amounts to a limited infill of the gap between the Mayfield Chapel and the former Mayfield School (a gap of some 29m) and as such would also be not inappropriate development, subject to the substantial harm test.

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[2] The Inspector in the Loxley Works decision gave Policies GE1 and GE3 limited weight but it does not follow that this finding in 2021 under a different version of the NPPF, which is not a legal precedent, applies to the unauthorised development. Whether or not such policies were inconsistent with a previous version of the NPPF (paragraph 149(g)) is not strictly relevant in any case.

[3] ie for the demolition of existing outbuilding (former shelter) and erection of a single storey building to provide home office and storeroom, erection of single storey flat roofed building (part subterranean) to provide garden store and garage for 2 vehicles with provision of soft landscaping.

15. Substantial harm is not defined in the NPPF or Planning Policy Guidance. I would agree that one would expect this form of words would generally be understood as a high hurdle to overcome. In paragraph 153 NPPF the advice is that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness, but in a footnote restricts this to "*other than in the case of development on previously developed land or grey belt land, where development is not inappropriate*."

16. The appellant's statement is detailed, and somewhat repetitive. As a precursor to discussing openness, it cites 5 decisions said to be relevant in establishing case law on GB. Three are appeal decisions and do not establish legal precedent of any kind. Two are judicial authorities which for present purposes I shall refer to as Samuel Smith and Doherty[4]. Both judgments are supplied in full, but the latter is not mentioned again in the statement. It is impossible to tell what point in Doherty is sought to be highlighted, no passage is emphasised, and no explanation is given of why the case is relevant. The Samuel Smith case, a Supreme Court decision, is first mentioned in the appeal statement as having been referred to in the Mead case[5], but whilst the Mead case is given a full citation, no judgment is supplied. Moreover, why the Mead case is mentioned is unexplained because all the quotes in the appeal statement come directly from the Smith case itself.

17. The principle sought to be emphasised can be shortly stated, ie openness is a broad term and a matter for planning judgement. It has a spatial dimension and may also have a visual dimension.

18. The outbuilding in question is a timber shed with a dual pitched, tiled roof, with c3m x c3.8m floor area and a height of c2.2m to the eaves and c3.5m to the ridge. It is understood to be common ground that this unauthorised development does not benefit from permitted development rights.

19. In terms of the effect on openness, the building is relatively small set against the backdrop of the other buildings in the wider development. There is clearly a spatial impact on openness by virtue of its presence, but this is not substantial in my view and it hardly constitutes a form of urban sprawl as the Council suggests because in essence it sits within substantial forms of existing built development, at least when viewed in that context on the north side of Mayfield Road.

20. Considering visual impact, the outbuilding is not in my view necessarily read as part of the wider cluster of residential buildings that are taller, wider and longer because the shed stands somewhat isolated from the larger buildings on either side giving it a marked prominence of its own. I accept that the further one recedes from the street scene, this effect lessens however, there is some visual impact where it can be clearly seen from the adjacent Mayfield Road and other vantage points up the valley side to the northeast. That said, the overall harm to openness remains less than substantial.

[4] *R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant) [2020] UKSC 3; Sefton Metropolitan Borough Council v Secretary of State for Housing, Communities and Local Government and Doherty [2021] EWHC 1082*

[5] *Mead Realisation Limited vs the Secretary Of State For Levelling Up, Housing And Communities and North Somerset Council and Redrow Homes Limited vs the Secretary Of State For Levelling Up, Housing And Communities and Hertsmere Borough Council [2024] EWHC 279 (Admin)*

21. I find on this issue that the development is not inappropriate development. Therefore, very special circumstances do not need to be demonstrated.

Whether development in accordance with development plan and other considerations

22. That a development is not inappropriate development in the GB does not mean that it is necessarily acceptable when assessed in terms of other planning policies. The development plan remains the statutory basis for the determination of planning applications unless material considerations indicate otherwise and, as the appellant states, the NPPF is a material consideration in planning decisions.

23. The appellant refers to the Council's Core Strategy adopted in March 2009 and sets out the overall vision, objectives and spatial strategy and policies for Sheffield until 2026. The Council does not submit or rely on any core strategy policies, and the appellant does not refer to any such. I therefore must assume, at least for the purposes of this appeal, that there are no relevant development plan policies other than those cited in relation to protection of the GB.

24. Both parties mention that the site is within the designated Area of High Landscape Value and the appellant considers the designation is considered to still be relevant. The Council does not rely on any policy, local or national that is related to this designation. The designation is a local one, and clearly it does not represent a designated heritage asset referred to in the NPPF. It is not therefore subject to the exception in paragraph 11d)i of NPPF and need not be considered further.

25. As far as concerns other material considerations, the appellant in his statement draws attention to paragraph 135 of the NPPF which sets out a list of design-based criteria against which policies and decisions are assessed. He sets out in full at paragraph 5.7 of the statement, these criteria. Thus, developments should ensure that they:

"a) "will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and wellbeing, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."

26. Having set out these criteria, and stated that they are relevant, the appellant does not deal in terms with any specific criterion or conclude on the issue of good design generally as expressed in paragraph 135 of NPPF but does make several comments that pertain thereto and that, in the interests of fairness, can be read across from the rest of his statement that have a bearing on these matters.

27. For its part, the Council stated that the building is of "acceptable design quality and materiality". Presumably it was referring to the materials used, however design, and good design is about more, as paragraph 135 NPPF exemplifies.

28. After viewing the site, I agree with the appellant's description of the outbuilding as clad in timber, weathered over time, it has a single door on the northeastern elevation and a tiled roof with terracotta ridge tiles. I accept that the roof materials were chosen to replicate those used on the former school building. However, I did note on inspection that the angular form of the shed, its height and wooden structure contrasted with the architectural form of the low stone walling beside which it had been placed, and not in a pleasing way.

29. The appellant also correctly notes that under the approved conversion scheme the appeal site is an area of hardstanding and not set aside for parking or any other use, but he is incorrect in my view to go on to suggest that the outbuilding therefore does not conflict with this permission.

30. In the first place, permitted development rights had been removed such that a building on the appeal site would indeed have been in conflict with it, irrespective of whether it fell within the curtilage of the Cottage. The appellant himself had accepted this earlier in his statement.

31. For the avoidance of doubt, and without going into an extensive discussion, I am firmly of the view that the appeal site falls outside the curtilage of the Cottage. In his final comments, the appellant produced two further judgments, in full, which I shall refer to for reasons of brevity, as Hiley and Hampshire[6], that relate to what constitutes a curtilage around a building.

32. Attention is drawn to the "Stephenson factors" stated to be *"(i) the physical layout, (ii) the ownership, past and present, and (iii) the use or function, past or present*", as discussed in Hiley, and the "part and parcel" test which the appellant considers was introduced by the court in Hampshire. This is incorrect. In the first place, Hampshire did not change the law on curtilage, although it usefully reinforced and clarified matters. Secondly, the part and parcel test is traced back to the Court of Appeal judgment of *Methuen-Campbell v Walters [1979] 1 QB 525* which established that for land to fall within the curtilage of a building, it must be intimately associated with the building to support the conclusion that it forms part and parcel of the building. In Hiley the court made it clear (paragraph 39 of the judgment) that the test to be applied was as set out in Methuen-Campbell and approved in the Hampshire case.

33. In quoting part of the passage in *Attorney General ex rel. Sutcliffe v Calderdale Borough Council (1982) 46 P & CR 399* (Calderdale) where Stephenson LJ referred to the three factors, the appellant fails to mention that this was in relation to deciding whether a structure (or object) is within the curtilage of a listed building

[6] *H Hiley and Secretary of State for Levelling Up, Housing and Communities v East Lindsey District Council [2022] EWHC 1289 (Admin); R (Hampshire County Council) v Secretary of State for Environment, Food and Rural Affairs [2022] QB 103*

within the meaning of the former section 54(9) of Town and Country Planning Act 1971 (see Hampshire at paragraph 110 of the judgment). The court in Hampshire distinguished Calderdale from cases pertinent to development control (more relevant here, albeit the phraseology has nowadays morphed into development management). Although the three factors are to be considered, they are not dispositive. In paragraph 123 of Hampshire, the court said explicitly that:

"In general planning cases, it will be necessary in future for practitioners to read the judgment in Challenge Fencing as a whole[7], and to have also in mind those other authorities which lay down key principles… For example, it will also be necessary to apply the fundamental principle stated in [14] of Challenge Fencing."

34. From perusal of the Challenge Fencing case, some important propositions are:

- it is a matter of fact and degree for the decision-maker;
- the three Stephenson factors must be considered;
- size is not determinative but relative size between the building and claimed curtilage may be relevant;
- the claimed curtilage need not be ancillary but this may be relevant;
- the degree to which the building and the claimed curtilage are in one enclosure is relevant; and
- the relevant date is the date of the application, but considering past history of the site, its layout and use at the time of the application.

35. Lieven J's approach in Challenge Fencing was that the "part and parcel" test in Dyer[8] but taken from Methuen-Campbell was correct. Dyer (at p.358D) held that "*an area of land cannot properly be described as a curtilage unless it forms part and parcel of the house or building which it contains or to which it is attached*." The same approach is in Methuen Campbell (but not "introduced" by Hampshire).

36. The upshot is that, taking into account the above considerations, including the Stephenson factors, the appeal site cannot be within the curtilage of the Cottage unless it forms part and parcel of that main building. The appellant explains, very simply that the appeal site "*is physically attached to The Cottage, separated only by a low wall and gate, and always owned and used by the occupier of the former school building*." In my view it would be misleading to characterise the appeal site as physically attached to the Cottage, if what is meant by that term is the main dwelling.

37. If, on the other hand, I am to understand that the plot of land owned and occupied by the appellant and known as the Cottage, includes the dwelling and the appeal site, then although this may be the case, and although the driveway between the two elements may also be owned by him, yet I do not view them as within one enclosure, since there is that physical divide that consists not only of the low wall and gate but the driveway itself, over which no doubt others have certain rights of access, and which presents an appreciable distance between the said elements. The appeal site is also clearly separated from the garden area which is more intimately connected with the main dwelling and part and parcel of its curtilage. For these reasons, I find that the appeal site is not in the curtilage of the Cottage.

[7] *Challenge Fencing Ltd v Secretary of State for Housing, Communities and Local Government [2019] EWHC 553 (Admin)*
[8] *Dyer v Dorset County Council [1989] 1 QB 346*

38. Thus, there is no scope for a fall-back argument that consideration should be given to what might be erected on the appeal site pursuant to permitted development rights, even had they not been withdrawn by condition on the approved scheme. That is not to say that later applications may not be made expressly for permission, including of course the present deemed application) but I note that the approved layout has a spaciousness where the car parking is largely open parking, situated in the space between the chapel building and the new residential units.

39. The building obstructs mostly open views through the site from Mayfield Road, across the rising and open land to the north-east. The patio and courtyard areas in the vicinity of the appeal site, are a positive and attractive feature of the approved scheme. Views into this area are undermined by the prominently placed shed set right in the middle and at the very front of the characterful properties bordering Mayfield Road, where its close proximity to the highway accentuates its massing and appearance and undermines the spaciousness created. Locating the structure within the appeal site cuts the 29m gap highlighted by the appellant in two and adds to the proliferation of other domestic curtilage buildings nearby, detracting from the character and appearance of the area.

40. The site is enclosed along its boundaries by low stone walling and sits within the parking area (although not occupying actual parking spaces). The timber shed, which is not a building of character rises above the wall and dominates it to a significant degree, causing harm to the street scene. Furthermore, implementation of the approved scheme has resulted in a pleasing and attractive feature that has enhanced the appearance of the low stone wall that runs across the wider site on Mayfield Road. Thus, as can be seen from the submitted approved plan and from my inspection, these walls now have uniform curvatures to them, at the chapel entrance, the Cottage entrance and (in the form of a horseshoe element) at the front of the parking area. This has given the low stone walls a rhythm and uniformly attractive appearance. The new shed unfortunately sits right in the middle of this feature, where the sense of spaciousness at the front of the wider site, has now been eroded and the rhythm and uniform appearance of the stone walling undermined to a significant degree.

41. The elevations of the Cottage on Mayfield Road are at an angle and whilst the development may be forward of the building line, as noted by the Council, it is not appreciably so. In coming up to the building line however, it unjustifiably presents itself as a candidate of equal merit with the established chapel and converted cottage building but signally fails to impress in terms of adding to the overall quality of the area. Rather it causes harm by its juxtaposition at the front of the open parking area, bisecting the spacious gap between the two larger blocks of built development as well as detracting from the appearance of the stone walling.

42. The appellant opines that if the outbuilding were removed, the vacant hard standing would be no more attractive. I disagree. It is the space within the horseshoe element that contributes to the character and appearance of the wider development which would be unacceptably undermined by the continued presence of the building.

43. Reference is made to the historic precedent of other building on or close to the appeal site, but this is to ignore the context of the approved scheme. The outbuilding may in fact be used for domestic purposes, but this does not provide a compelling reason that would overcome the harm identified. Small domestic

outbuildings in or around curtilages can be acceptable. I note the examples submitted but they do not reflect the appeal site and its surroundings. I acknowledge the use of wood as external facing material but whilst it may be a 'soft' elevation, I disagree that it is not dominant over the stone of the buildings and boundary walls. It is certainly dominant over the low stone walling and whilst not dominating the larger buildings in between which it sits, the shed is incongruous and out of place. Nor do I agree that the outbuilding is necessarily viewed in a domestic context as it is between the driveways to the respective properties, ie the converted units and the chapel building, as well as at the head of a relatively large car park for 10 spaces including 3 similarly aligned, belonging to the chapel,

44. Beyond the chapel to the northwest and the converted school site to the southeast, the appeal building does, as the appellant suggests, blend into the wider area and is seen against the "*background of existing residential development and residential paraphernalia*". However, it should not be thought that all residential paraphernalia would be the norm in the approved scheme because permitted development rights were removed. That said, the harm to the character and appearance of the area away from the immediate street scene is not substantial or serious.

45. The new shed conflicts with paragraph 135 of NPPF in particular sub-paragraphs a), b), c), and d) thereof, in that its location within the wider development represents a poor design layout and inappropriate siting having regard to the approved conversion scheme, that does not add to the overall quality of the area, is unsympathetic to the character of the built form nearby, especially the walling by which it sits in close proximity, and fails to maintain the sense of spaciousness created by the arrangement of driveways, spaces, and building types comprised in the said scheme. The harm to the character and appearance of the street scene is significant. No conditions are suggested that would suitably mitigate the harm.

46. Sustainable development provides economic benefits to the country (by contributing to a strong responsive and competitive economy), social benefits (through supporting vibrant and healthy communities) and an environmental role (by protecting and enhancing our natural, built and historic environment). There would be a small social and/or economic benefit attached to the building's retention due to the apparent domestic purpose, possibly storage, that it serves in relation to the Cottage. Its precise function is unexplained. Other than that, there are no public benefits advanced in favour of it and no case made for any particular need. In environmental terms, it is unsustainable for the reasons I have given.

47. I find that for the foregoing reasons the development is unsustainable, and the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. I shall therefore refuse permission.

Conclusion

48. 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).

Grahame J Kean

INSPECTOR