



Appeal Decisions

Site visit made on 28 January 2026

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th February 2026

Appeal A Ref: APP/C4235/C/25/3360424

Appeal B Ref: APP/C4235/C/25/3360425

Appeal C Ref: APP/C4235/C/25/3360426

31 Arundel Avenue, Hazel Grove, Stockport SK7 5LB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act).
 - The appeals are made by Miss Melanie Duffy (3360424), Mr Richard Albinson (3360425) and Miss Amy Favill (3360426) against an enforcement notice issued by Stockport Metropolitan Borough Council.
 - The notice was issued on 15 January 2025.
 - The breach of planning control as alleged in the notice is without the benefit of planning permission, the material change of use of the material change in use of land from a single dwellinghouse to a mixed-use as a dwellinghouse and a business use providing gym and fitness classes to groups and individuals.
 - The requirements of the notice are to cease the use of the land for the provision of personal training, as gym used by people who are not occupiers of the dwellinghouse or for fitness training.
 - The period for compliance with the requirement is three months.
 - The appeals are proceeding on the grounds set out in section 174(2)(a), (b), (c), (f) of the Act. 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. It is directed that the enforcement notice is corrected by:
 - The deletion of the words “Cease the use of the land for the provision of personal training, as a gym used by people who are not occupiers of the dwellinghouse or for fitness training” from sub-paragraph 5 and its substitution with the words “Cease the use of the land as a mixed-use of a dwellinghouse and a business use providing gym and fitness classes to groups and individuals.”
2. Subject to the correction the appeals are 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 Act.

Appeals on ground (b) and (c)

3. An appeal on ground (b) is a claim that the matters stated in the notice (which may give rise to the breach of planning control) have not occurred as a matter of fact.
4. An appeal on ground (c) is that the matters alleged at Section 3 of the enforcement notice, if they occurred, do not constitute a breach of planning control. The onus of proof in ground (b) and (c) appeals is on the appellant and the test of the evidence is on the balance of probability.

5. The appellants explain in their statement of case that they no longer run fitness sessions at 07:00 and that they have discontinued one on one client sessions. There is no external signage, no structural changes and it is indicated that all activities occur within the boundary of the property. The appellants further state that there is no significant increase in comings and goings compared to a large family or social household. They do confirm that they run one hour fitness sessions up to 11 times a week with approximately six to eight clients at these sessions.
6. For a material change of use to have occurred, there must be some significant difference in the character of the activities from what has gone on previously as a matter of fact and degree. There are around six to eight clients visiting the property up to 11 times a week which equates to approximately 66 to 88 clients coming and going from the property every week. This amount of visits is not typical of a residential property whether it be a large family home or a social household. Whilst there may not be any physical alterations to the building itself, this amount of movements to and from the property is a significant difference in the character and a material change of use has occurred.
7. On the balance of probability and from the evidence before me, I am satisfied that a material change of use has occurred from a single dwellinghouse to a mixed-use as a dwellinghouse and a business use providing gym and fitness classes.
8. Consequently, the appellants have failed to demonstrate that at the date the notice was issued the matters alleged had not occurred, and the appeals on ground (b) must fail.
9. At the date the notice was issued the active use of the property was a mixed-use as dwellinghouse and business use providing gym and fitness classes. As described the change of use to this mixed-use is materially different in character and effect from its previous use as a sole dwellinghouse. The change of use from one to the other is therefore a “material change of use” and constitutes “development” as defined at Section 55 of the Act.
10. Planning permission is required for the development. However, there are no permitted development rights to make such a change within the Town and Country Planning (General Permitted Development) Order 2015 as amended, and no planning permission has been granted by the Council.
11. Therefore, the making of a material change of use from dwellinghouse to a mixed-use of dwellinghouse and business use providing gym and fitness classes amounts to “development”. Since the development has been carried out without the required planning permission it thereby constitutes a breach of planning control. The appeals on ground (c) therefore fail.

Appeal on ground (a)

12. This ground of appeal is that planning permission should be granted for the matters alleged in the notice.

Main issue

13. The main issues are the effect of the development on the living conditions of occupiers of neighbouring properties in terms of noise and nuisance, and the effect of the development on highway safety regarding traffic generation and parking.

Reasons

Living conditions

14. The appellant has indicated that operating hours have reduced with smaller groups which are undertaken within reasonable hours of the day. It is maintained that noise levels are low indicating they do not disturb their young daughter and that they are not dissimilar to domestic noise activities such as DIY, garden work and deliveries. The appellant highlights that fitness sessions are generally indoors with outdoor use minimal and weather dependent. Sessions are supervised and structured to maintain a calm environment, avoiding music or amplified sound with all weights rubber coated to reduce impact.
15. A local resident has described that the arrival and departure of clients generates significant noise including from vehicles, entrance gates opening and closing, as well as noise from the sessions describing matters such as music playing, timers counting down and use of equipment. The appellant largely disputes the accounts of this local resident.
16. The surrounding area is characterised predominantly as a residential area with the appeal property located in close proximity to neighbouring dwellings. The coming and going of six to eight clients to a property around twice a day during the week and once on a Saturday is unusual for a residential area. This concentration of clients arriving and leaving at the same time, whether by vehicle or by foot, would create a level of noise and disturbance not expected in a residential area. Noise from vehicles doors opening and closing, general conversations between clients arriving and leaving including the opening of doors and gates at the property would be noticeable particularly to occupiers of nearby properties. The intensity of six to eight clients visiting the appeal property twice a day during the week and once on a Saturday, with the type of noise related to these movements would have an adverse effect on the living conditions of neighbouring occupiers.
17. The appellant details that noise levels of the fitness sessions are similar to activities such as DIY, garden work and deliveries however, these activities themselves can be noisy and disruptive depending on what's specifically involved and the frequency of these activities. There is a dispute in the submitted evidence with regards to the noise levels emitted from the fitness sessions and I do not have any technical noise data before me such as a noise impact assessment report from an independent surveyor. Fitness sessions are unlikely to be quiet activities, particularly with groups of six to eight clients, as there would be conversations between people and then associated noise with the actual fitness part of the session such as the use of equipment and any music that is being played. The frequency of the sessions would add to the intensity of the noise levels experienced by local residents that could have a compromising effect on living conditions. It has been described that outdoor sessions are undertaken, and whilst these may be minimal, the noise levels from an active fitness session would be greatly enhanced compared to internal sessions.
18. From the evidence before me, I consider that due to the amount of clients attending the fitness sessions, the frequency of the sessions, the close proximity of neighbouring properties and the associated noise and disruption as described above, would amount to a level that would compromise the living conditions of neighbouring occupiers.

19. The use described in the notice and its associated activities would be harmful on the living conditions of occupiers of neighbouring properties in terms of noise and nuisance. It would be contrary to Policies CS8 and SIE-1 of the Stockport Core Strategy DPD and Policy CDH1.2 of the Stockport Unitary Development Plan which seeks non-residential development to take account of noise and nuisance, and for the amenity of neighbouring residents to be accounted for.

Highway safety

20. There are areas available for on street parking although this is restricted by driveways and dropped kerbs of neighbouring properties. The appellants describe that over 80% of their clients live locally and walk to sessions and those attend in vehicles are encouraged to park in a considerate manner or use the nearby public car park.
21. Correspondence from a local resident including submitted photographs show inconsiderate parking of vehicles, some of which are showing vehicles blocking driveways and other vehicles. The consequence of inconsiderate parking is that motorists could attempt unusual or dangerous vehicle manoeuvres that can lead to obstructions in the road and thus compromising highway safety.
22. It is noted that the local resident explains that the blocking of driveways by vehicles had stopped which follows the appellants assertions that they have encouraged clients to be more considerate in their parking of vehicles.
23. Ultimately though, the appellants do not have full control over how clients arrive at the appeal property including where they park if they travel by vehicle. Whilst 80% of clients may walk at present, these habits could change depending on matters such as personal preference, time of the year or what the weather is like. Clients may also change which can result in more travelling by vehicle.
24. Given the amount and frequency of visits from clients to the appeal property and the uncertainty as to how they travel, along with the limited amount of on street parking places close to the appeal site, this would lead to an increase in traffic generation to the site that can result in inappropriate parking that would compromise highway safety in the area.
25. The use described in the notice would be harmful to highway safety of road users and would be contrary to Policies CS8 and SIE-1 of the Stockport Core Strategy DPD and Policy CDH1.2 of the Stockport Unitary Development Plan which seeks non-residential development to have account of traffic generation and parking.

Other matters

26. I have had regard to the appellants statement of case including matters relating to expense of renting commercial premises, public health promoting physical and mental wellbeing, the economic viability of a micro-business and the effect on the appellants livelihood and family commitments. These matters are benefits in favour of the business use, however, there is no compelling evidence before me to suggest that alternative arrangements for the business have been explored, such as other premises for the fitness sessions. These matters do not outweigh the harm I have identified in the main issues above.
27. An option to extend the appeal property to reduce external fitness sessions have been offered. This nevertheless, would not overcome the harm I have identified

with regards to noise and nuisance from within the property and the comings and goings, as well as the matters relating to traffic generation and parking.

28. It has been suggested that planning conditions could be utilised on various aspects of the business including limiting class sizes to six clients, restricting operating hours to between 08:00 and 18:00, prohibiting outdoor use, limiting sessions per day or per week and imposing parking restrictions. Limiting class sizes to six clients and restricting operating hours would still result in a significant amount of clients visiting the property and creating the noise levels and parking issues that have been described above. Prohibiting outdoor use would reduce some noise but would not alleviate noise coming from inside and the disruption caused by clients arriving and leaving the property. There is no clear indication on what is meant by limiting class sessions per day or per week and how this would affect noise and traffic levels in terms of number of clients arriving at the property. There are no specific details on what would be involved with parking restrictions, and this is unlikely to be enforceable given the appellants would not be able to control how clients attend fitness sessions. I do not consider that planning conditions relating to the matters presented to me would overcome the harm that I have identified with regards to noise and nuisance, and highway safety.

Conclusion on ground (a)

29. The development would conflict with the development plan as a whole and there are no other considerations, including the provisions of the National Planning Policy Framework, which outweigh this finding.
30. For the reasons given above, I conclude that the appeal should be dismissed and the appeal fails on ground (a).

Appeals on ground (f)

31. An appeal on ground (f) is that the requirements of the notice exceed what is necessary in order to remedy the breach of planning control or, as the case may be, the injury to amenity that is caused by the breach. Since the notice requires the cessation of the mixed-use, it is clear that the purpose of the notice is to remedy the breach.
32. The appellant argues that the requirements of the notice are excessive and that lesser steps can be taken. These include the imposition of planning conditions which I have assessed under the ground (a) appeal and found that they would not overcome the harm with regards to noise, nuisance and highway safety. I therefore do not consider the requirements are excessive in this regard.
33. The requirements of a notice should reflect and follow logically from the allegation. The wording of the requirements detailed in this notice differs somewhat from the allegation. For the sake of clarity, I have varied the wording of the requirements in order to reflect the allegation. Given the requirements align with the allegation, I am satisfied that no injustice to the appellant or the Council would arise by me correcting the notice in this way. I have therefore done so using the powers available to me under Section 176(1) of the Act.
34. As I have varied the wording of the requirements, the appeal on ground (f) succeeds to this extent.

Conclusion

35. For the reasons given above, I conclude that the appeals should fail on grounds (a), (b) and (c), and succeed on ground (f). Subject to the correction of the notice, as detailed in paragraph one, the appeals are dismissed, and the enforcement notice should be upheld.

Chris Baxter

INSPECTOR