



Appeal Decisions

Site visit made on 26 March 2026

by **M Bale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 May 2026

**Appeal A Ref: APP/P2114/C/23/3326561 Appeal B Ref: APP/P2114/C/23/3326562
Appeal C Ref: APP/P2114/C/23/3326563 Appeal D Ref: APP/P2114/C/23/3326564
Land between Morrisons and The Merrie Gardens Public House, Newport Road,
Lake, Sandown, Isle of Wight, PO36 9PT**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeals are made by Mr John Kovacik of South Wight Rentals (Appeal A), Mr David Geddes (Appeal B), Mrs Karen Geddes (Appeal C), and Mr Marcus Prime (Appeal D) against an enforcement notice issued by Isle of Wight Council.
- The notice was issued on 15 June 2023.
- The breach of planning control as alleged in the notice is: Without planning permission and in the last 10 years a material change of use of the land outlined red on the attached Plan A from vehicle sales/vehicle hire, to vehicle sales/vehicle hire, hand car wash, tyre repairs/replacement, storage by the siting and use of containers as self-hire storage, importation and storage of sand, gravel, hardcore, other building materials, tyres and the storage of domestic waste. A recycling centre by the importation of tyres and tyre baling equipment, a takeaway by the siting and use of a mobile catering unit and the use of the land as a hand car wash;
and,
Without planning permission and in the last 4 years the erection of a building shown in the approximate position shaded pink on the attached Plan B.
- The requirements of the notice are:
 1. To cease the use of the Land for storage of shipping/storage containers and any internal stored contents.
 2. To remove all shipping/storage containers in the approximate locations shaded green on the attached Plan B from the Land.
 3. To cease the use of the Land for tyre re-cycling/baling.
 4. To remove the tyre baler and any other associated equipment from the approximate positions shaded yellow on the attached Plan B from the Land.
 5. To cease the use of the Land for repair and replacement of tyres.
 6. To remove all equipment relating to the tyre repair/replacement business "Discount Tyres" to include the wooden outbuilding in the approximate location shaded pink on the attached plan B from the Land.
 7. To demolish the building shown in the approximate position shaded pink on the attached Plan B and remove resulting material from the Land.
 8. To cease the use of the Land for the storage of baled tyres, tyres and building materials to include but not exclusive to sand, aggregate, hardcore, other building materials, plastic safety barriers and general household waste to include white goods.
 9. To remove all baled tyres, tyres and building materials to include but not exclusive to sand, aggregate, hardcore, other building materials, plastic safety barriers and general household waste to include white goods in the approximate location lined blue on the attached Plan B for the from the Land [sic].
 10. To cease the use of the Land as a hand-car wash.
 11. To remove the temporary shelter and canopy provided for the hand car wash in the approximate location shaded orange on the attached Plan B from the Land.
 12. To cease the use of the Land for the siting of a mobile catering unit for use as a takeaway.
 13. To remove the mobile catering unit and all associated paraphernalia to include tables and chairs from the approximate location shaded grey on the attached Plan B from the Land.
- The periods for compliance with the requirements are: Requirements 1, 3, 5, 8, 10 and 12 – 3 months; Requirements 11 and 13 – 4 months; Requirements 2, 4, 6, 7 and 9 – 5 months.

- Appeal A is proceeding on the grounds set out in sections 174(2)(a), (d), (f) and (g), and Appeals B, C and D are proceeding on the grounds set out in sections 174(2) (d), (f) and (g) 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: The enforcement notice is quashed.

The Enforcement Notice

1. An enforcement notice must inform the recipient with reasonable certainty what the breach of planning control is and what must be done to remedy it. If necessary, before determining the appeal, I have a duty to put the enforcement notice (“the Notice”) in order. My powers under section 176(1)(a) of the Town and Country Planning Act 1990 (as amended) (“the 1990 Act”) include to correct any defect, error or misdescription in the Notice or, under section 176(1)(b), to vary the terms of the Notice. In each case, the only test is whether the correction or variation would cause any injustice to the appellant or the local planning authority.
2. The Notice clearly alleges operational development separate to a material change of use. However, it is unclear whether one or more mixed uses, or a number of individual uses, are alleged to have occurred on the site. A mixed use is not explicitly alleged, and the allegation is set out as a single paragraph, albeit in two sentences, each listing multiple uses. That could imply that one or two mixed uses are taking place on the land to which the Notice relates (“the Land”).
3. Conversely, the requirements of the Notice relate to each use individually, implying that the various uses are separate. Indeed, the appellants’ grounds of appeal and Council’s statement deal with some of the uses separately, suggesting that, at that stage, both parties believed that multiple separate uses were alleged. While the allegedly unauthorised uses of the site are clearly identified, this internal inconsistency in the Notice means that it is not clear precisely what has been done.
4. Notwithstanding their initial grounds of appeal, in response to questions from me about the Notice, the appellants have suggested that the Land is potentially in a mixed use. The Council provided no substantive comment in that regard.
5. From my observations and the evidence before me, the Land appears to be in a single ownership, with various businesses occupying parts of it, each not necessarily in a single or fixed location. No single use is clearly distinguishable or physically separate to the other parts of the Land. This all points to it being likely that the Land was and continues to be a single planning unit. By extension, all of the uses must form a single mixed use (comprised of the individual uses).
6. In order to provide clarity, it would be necessary to correct the allegation to refer specifically to a material change of use to a mixed use, comprising all of the uses currently listed. That would, however, have implications for the appellant’s ground (d) appeal, which is made on the basis of separate uses.
7. Furthermore, such a correction would require consequential corrections to the requirements of the Notice. Currently, inconsistencies in wording between the allegation and requirements are such that it is unclear whether the Notice would remedy the breach of planning control.

8. For example, part of the allegation is “A recycling centre by the importation of tyres and tyre baling equipment”. The corresponding requirements are to “Cease the use of the Land for tyre re-cycling/baling” and remove the various bits of equipment/materials. While tyre recycling/baling might be a particular type of recycling, the wording of the allegation is such that it probably alleges a use as a general recycling centre, with the references to tyres simply describing what has given rise to the use. As the requirement only requires tyre re-cycling/baling to cease, it may be that other recycling uses could continue.
9. There are similar inconsistencies and potential consequences with the drafting surrounding the storage and takeaway uses. Overall, each of the components of the use are required to cease separately, but a single requirement to cease the mixed use would be necessary in order to fully and clearly ensure that the Notice remedied the breach of planning control.
10. Thus, given that a corrected enforcement notice would fully remedy the alleged breach of planning control, it may be more onerous than the current Notice. That, along with the fact that the appellant may have put their case differently in respect of a notice drafted in such a vastly different way means that injustice would be likely.
11. For the reasons given above, I conclude that the Notice does not specify with sufficient clarity what the alleged breach of planning control or steps required for compliance are. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act, since injustice would be caused were I to do so. The Notice is invalid and will be quashed, although it may well be that the Council can use its powers under S171B(4) of the 1990 Act to take further enforcement action if it deems it expedient to do so.
12. In these circumstances, the appeals on the grounds set out in section 174(2) (a), (d), (f) and (g) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act do not fall to be considered.

Formal Decision

13. The enforcement notice is quashed.

M Bale

INSPECTOR