



Appeal Decisions

Site visit made on 2 July 2026

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03rd July 2026

Appeal A Ref: APP/A1015/C/25/3360317

Appeal B Ref: APP/A1015/C/25/3360318

28 McMahon Avenue, Inkersall, Chesterfield, S43 3HN

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - Appeal A is made by Mr Luke Shipstone and Appeal B is made by Miss Kaydene Saunders against an enforcement notice issued by Chesterfield Borough Council.
 - The notice was issued on 3 February 2025.
 - The breach of planning control as alleged in the notice is without planning permission: the siting of a metal structure and operation of a beauty business from the metal structure which is located on the front driveway area and forward of the building line at the land. With the approximate location shown at point A and shown outlined with a blue border on the attached plan.
 - The requirements of the notice are to 1. remove the metal container from the land and 2. cease the operation of the beauty business at the premises within the land.
 - The period for compliance with the requirements is 28 days from the date the notice takes effect.
 - The appeals are proceeding on the grounds set out in section 174(2)(c) and (f) of the Town and Country Planning Act 1990 (as amended).
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Decisions

1. The appeals are dismissed and the enforcement notice is upheld.

Ground (c) appeals

2. An appeal made on ground (c) is that the matters alleged do not constitute a breach of planning control. The onus is on the appellant to make a case on the legal grounds of appeal.
3. The appellant claims that the metal container is in fact a trailer and hence does not amount to operational development. The evidence is that a metal container was placed on the land in 2023. According to the occupier of the neighbouring property it was *'lifted into place'* at this time and has *'not been moved from its position on paving slabs'*.
4. The Council states that the appellant indicated in the summer of 2023 that the metal container was to be used as a home office. This has not been disputed by the appellant. However, and, following comments from the Council that planning permission would be required for such development, the appellant then wrote to it on 3 September 2023 to say that it would be adapted to a *'mobile trailer'* and that he intended to retain it in its current position on the land.
5. On 8 September 2023, the appellant sent photographs of the metal structure showing that it had been adapted and including the provision of wheels, an axle, jockey wheel, and towing bracket. On my site visit, I was also able to see that part of the container had been clad with timber and that it had external lights. The latter were not connected to the electricity supply and were solar lights.

6. It is well established that the appropriate criteria for determining whether a structure constitutes a building are size, permanence, and physical attachment. None of these factors are necessarily decisive and greater weight may be given to one factor over another in reaching a decision. It is ultimately a matter of planning judgement on a fact and degree basis.
7. In terms of size, the breach of planning control is large enough to be a building. Regarding permanence, the evidence indicates that it has essentially been in the same position since 2023 and until the date of the issued notice. It was still in the same place when I visited the site. The front driveway is somewhat constrained owing to its size. Irrespective of claims made about whether the container is capable of being moved, it is not likely that it would be moved elsewhere within the front driveway as that would prohibit the parking of a vehicle(s) off the road as is shown in the photograph, dated 21 April 2023, taken by the occupier of the neighbouring property.
8. It is also noteworthy that the appellant has commented that he does not have a tow bar and so could not move the container off-site even if the adaptations to the container were proven to make it safe and/or reasonably roadworthy from a towing point of view.
9. While there is no evidence that the container is physically connected to the ground in any way (including any attachment to utilities infrastructure), I nonetheless conclude, as a matter of fact and degree, that owing to its size and permanence it comprises a building. In respect of the latter, the long length of time that the container has been in the same place suggests that it is likely to continue to remain in such a position. In my judgement, it has the characteristic of permanence. The adaptation of the container to include wheels (I noted that the very small wheels had been removed on my site visit), a chassis, towing bracket, and jockey wheel, do not, in this case, lead me to reach a different conclusion in respect of the breach of planning control being a building.
10. As I have concluded that the breach of planning control is a building, it is therefore an act of development under section 55 of the Act. Even if the facilitating beauty business was considered to be a use that was incidental to the enjoyment of the dwellinghouse (I have little evidence before me about such a use), it would not fall to be permitted development under Class E of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) because the container is situated on land forward of a wall forming the principal elevation of the original dwellinghouse.
11. For the above reasons, I therefore conclude that the ground (c) appeals fail.

Ground (f) appeals

12. An appeal on ground (f) is made on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control or to remedy any injury to amenity which has been caused by any such a breach.
13. The appellant's claim on ground (f) relates to the Council's request to see the trailer being towed on the highway. This is not a matter which is relevant to the consideration of a ground (f) appeal. In any event, whether the container could be

towed has not been a decisive matter in terms of this case and in particular my consideration of the ground (c) appeal.

14. The purpose of the notice is to remedy the breach of planning control by removing the container and ceasing the facilitating material change of use of the land. While my site visit demonstrated that the container was currently being used for the storage of fishing tackle, and not in association with a beauty business, there is no ground (b) appeal and hence no dispute between the main parties that it was in use as a beauty business when the notice was issued. The requirements of the notice are not therefore excessive as they seek to remedy the breach of planning control.
15. For the above reasons, I conclude that the ground (f) appeals fail.

Other Matter

16. I note the supportive comments made by the occupier of 35 McMahon Avenue. However, such comments are relevant to the consideration of a ground (a) appeal and a deemed planning application. A ground (a) appeal is not before me.

Conclusion

17. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice.

D Hartley

INSPECTOR