



Appeal Decision

Site visit made on 9 June 2026

by **A A Phillips BA(Hons) DipTP MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 July 2026

Appeal Ref: APP/J4423/C/25/3361302

Land on the north side of Rotherham Road, Beighton, Sheffield

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Ms Elizabeth Rose Barton of 24/7 Equestrian & Leisure Limited against an enforcement notice issued by Sheffield City Council.
- The notice was issued on 23 January 2025.
- The breach of planning control as alleged in the notice is the change of use of the Land for the storage, breakers yard, scrap yard, storage of vehicles and sales of vehicles, the installation of associated site cabins and the erection of a boundary fence at the Land on the north side of Rotherham Road, Beighton, Sheffield.
- The requirements of the notice are to:
 - i. Cease the use of the Land for the purposes of vehicular sales, breakers yard, scrap yard and storage of vehicles;
 - ii. Clear from the Land all vehicles, materials and ancillary buildings associated with this use (including mobile buildings);
 - iii. Remove the boundary fence adjoining Rotherham Road (and associated posts, gates); and
 - iv. Remove any waste materials resulting from paragraphs 5 (i), (ii), (iii) above from the land.
- The period for compliance with the requirements is 1 month.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) of the Town and Country Planning Act 1990 (as amended).

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

1. It appears to me that there are surplus words in the description of the matters which appear to constitute a breach of planning control as set out in paragraph 3 of the Notice. The words “the storage” at the end of the first line can be deleted and replaced with the word “a” to make the alleged breach clearer. This would not cause injustice to either main party in this case.

The appeal on ground (a)

2. The ground of appeal is that planning permission ought to be granted. The main issues are:
 - Whether the principle of the use is acceptable;
 - The effect on the living conditions of the occupiers of nearby residential properties with particular reference to noise;
 - The effect on the role of open space in the area; and
 - The effect on the character and appearance of the area.

Principle

3. Policy H10 of the Sheffield Unitary Development Plan Adopted March 1998 (the UDP) relates to development in housing areas and identifies those types of development that will be acceptable and unacceptable. Unacceptable uses include open storage and scrapyards, both which are the subject of the current enforcement notice. The appellant argues that the primary use of the land is as a vehicle breakers yard and that other uses identified as part of the alleged breach of planning control are incidental to the main use. However, there is no appeal on grounds (b) (that the breach alleged has not occurred as a matter of fact) or (c) (that there has not been a breach of planning control). As such the mixed use against which the Notice seeks to enforce clearly includes use which are not considered to be acceptable in principle, in this location.
4. Consequently, I conclude that the principle of the use is unacceptable and conflicts with Policy H10 of the UDP.

Living conditions

5. The appeal site is adjacent to residential properties to the south-west. The nature of the use the subject of this appeal involves a range of commercial related noise, including machinery, power tools, external activities, vehicle engine revving and vehicle movements. Due to the characteristics of the site, with little physical cover results in most activities taking place outside, there is clearly potential for noise to compromise the living conditions of nearby residents.
6. The noise impact assessment which accompanies the appeal found that the rating level of noise associated with the existing operation was equal to the typical background sound level, and the proposed operation was at least 4 dB below the typical background sound level. This indicates that noise from existing and proposed operation of the site will have a low impact and is likely to constitute no observed adverse effect level. As such, the report concludes that proposed site expansion is not expected to cause any loss to residential amenity.
7. However, the assessment was carried out on the basis of proposed expansion of an existing breakers yard onto adjacent land. That does not represent the development before me. Furthermore, there is insufficient evidence that the report properly characterises the mixed use breakers yard, scrap yard, storage of vehicles and sales of vehicles and associated development the subject of the enforcement notice. I have considered whether the potential effects of noise could be satisfactorily mitigated through the imposition of a suitably worded planning condition, but the characteristics of the site are such that there are limited opportunities for mitigation without there being potentially harmful knock-on effects on character and appearance, for example.
8. Therefore, there is insufficient evidence for me to conclude that the development does not have a harmful effect on the living conditions of the occupiers of nearby residential properties with particular reference to noise. Therefore, the development conflicts with Policy H14 of the UDP which, among other objectives, permits new development in Housing Areas provided it would not lead to noise for people living nearby.

Open space

9. Policy LR5 of the UDP relates to development in open spaces which will not be permitted where, among other things it would make an open space ineffective as an environmental buffer and where the proposed use would be incompatible with surrounding land uses.
10. The site is located within an area of open space which was designated in 1998 after part of the site was acknowledged to have been in use as a scrap yard and vehicle dismantlers. However, it is nonetheless allocated as part of the development plan process which was found to be sound at the time and remains part of the development plan to this day. The appellant acknowledges that some trees have been removed from the site and there is a willingness to introduce a landscape buffer.
11. Using all of the site for the alleged mixed use undoubtedly compromises its potential role as a landscape buffer between residential and other uses in the area. That buffer role has already been compromised by the removal of mature trees, which is regrettable. There is also the matter of the compatibility of the proposed use with surrounding uses which also causes concern given the sensitivity of residential uses and the important role that open space can play in terms of visual and noise mitigation, for example.
12. Given these concerns I conclude that the development has a harmful effect on the role of open space in the area and, in particular, its role as an environmental buffer and compatibility of the use with its surroundings, contrary to Policy LR5 of the UDP and the Framework.

Character and appearance

13. The relatively high, grey painted solid metal fence along Rotherham Road replaced metal palisade fencing. I can see that the previous fence was commercial in character and allowed for views through into the site and its surroundings. The replacement boundary treatment is a visually stark, solid feature in an area where there is a range of boundaries, including hedges and trees.
14. The overall appearance of the fence is at odds with its mixed use surroundings, comprising a visually intrusive and industrial feature which is harmful to the character and appearance of the area. Therefore, it is contrary to the provisions of Policy H14 of the UDP which requires new development to be well-designed and to be in scale and character with neighbouring buildings.

Other matters

15. The Council has raised the matter of flood risk in its appeal submissions, but this is not a reason for issuing the enforcement notice. Therefore, I assume it was not of sufficient concern to the Council to warrant inclusion in its reasoning set out in the Notice. As such, and given my conclusions on the main issues, this matter does not warrant further detailed consideration at this stage.

Conclusion

16. For the reasons above I conclude that the development conflicts with the development plan as whole and planning permission should be refused on the application deemed to have been made.

The appeal on ground (f)

17. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve the purpose. The purposes of an enforcement notice are set out in s173 of the Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)). Since the notice requires the use to cease, all vehicles, materials and ancillary buildings (including mobile buildings) to be removed, the boundary fence adjoining Rotherham Road (and associated posts, gates) removed and any waste being removed, the purpose is clearly to remedy the breach. Leaving any parts of the development in place would not achieve that purpose.
18. Nonetheless, I am mindful that enforcement action is intended to be remedial and not punitive. With a ground (a) included in the appeal it would be possible to grant planning permission for part of the development. The appellant states that most of the site has been in commercial use for many years and has taken place without concerns about the effects on local residents. The appellant considers that the Notice should, as a maximum, require cessation of the use within a smaller part of the appeal site.
19. When the previous use of the site as a builder's yard started, any previous right to operate as a vehicle breakers, dismantlers, or scrapyard was lost. Even though no enforcement action was taken at the time, case law¹ indicates that the owner cannot simply switch back to the old use without obtaining planning permission. Consequently, the site currently has no lawful use rights for a scrapyard, and there is no legal fallback option to return to that use.
20. In these circumstances and based on the range of evidence before me, the lesser steps suggested by the appellant including using a smaller part of the site, would neither achieve the purpose of the enforcement notice nor lawfully achieve the appellant's suggested lesser steps. The appeal on ground (f) does not succeed.

The appeal on ground (g)

21. The ground of appeal is that the time given to comply with the requirements is too short. One month would be sufficient time to cease the use of the site, clear all vehicles, materials and ancillary buildings associated with this use, remove the boundary fence adjoining Rotherham Road (and associated posts, gates); and remove any waste materials from the site. The 6 month compliance period suggested by the appellant would be excessive having regard to the ongoing harm caused by the unauthorised development. Other than stating that some specialist equipment and contractors would be needed, there is little evidence about why an increased time period is required.
22. Consequently, the appeal on ground (g) does not succeed.

¹ Fairstate Ltd v FFS & Westminster CC [2005] EWCA Civ 283; JPL 1333

Conclusion

23. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Formal Decision

24. It is directed that the enforcement notice is corrected by the deletion of the words "the storage" at the end of the first line of paragraph 3 and their substitution with the word "a".
25. Subject to this correction, 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.

A A Phillips

INSPECTOR