



---

## Appeal Decision

Site visit made on 23 June 2026

**by Mark Caine BSc (Hons) MTPL MRTPI LSRA**

an Inspector appointed by the Secretary of State

**Decision date: 5 August 2026**

---

**Appeal Ref: APP/P4415/C/25/3375108**

**Land to rear of 19 Shelley Road, Herringthorpe, Rotherham S65 2NF**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Shabeer Hussain against an enforcement notice issued by Rotherham Metropolitan Borough Council.
- The notice was issued on 9 October 2025.
- The breach of planning control as alleged in the notice is The erection of a 3-storey building comprising of 9 No. Residential Flats (dwellinghouses) and storage space in the roof space.
- The requirements of the notice are to: Demolish the 3-storey building (comprising of 9 No. Residential Flats and storage space in the roof space) and remove all materials used in its construction permanently from the site.
- The period for compliance with the requirements is: Within 2 years from the date that the notice takes effect.
- The appeal is proceeding on the ground set out in section 174(2) (f) of the Town and Country Planning Act 1990 (as amended).

**Summary Decision: The appeal is dismissed, and the enforcement notice is upheld with corrections in the terms set out below in the Formal Decision.**

---

### The Enforcement Notice

1. Section 176(1) of the Act states that, on appeal, the Secretary of State may (a) correct any defect, error or misdescription in the enforcement notice; or (b) vary the terms of the enforcement notice, if they are satisfied that the correction will not cause injustice to the appellant or the LPA.
2. Section 171A (1) (a) of the Act says that the carrying out of development without the required planning permission constitutes a breach of planning control. The breach of planning control as alleged in the notice is therefore required to include the words “without planning permission” before “the erection of a 3-storey building”.
3. The word “permanently” in the requirements of the notice is unnecessary having regard to Section 181(1) of the Act which states that compliance with an enforcement notice shall not discharge the notice. The requirements of an enforcement notice thus have an enduring effect. This word is therefore required to be removed from the notice.

### Preliminary Matter

4. An appeal on ground (a) was initially lodged but the appellant has confirmed that this and the deemed planning application have been withdrawn. As such, the appeal proceeds on ground (f) only.

### **Appeal on ground (f)**

5. The appeal on ground (f) is brought on the grounds that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control which may be constituted by those matters stated in the notice or, as the case may be, remedy any injury to amenity which has been caused by such breach.
6. When an appeal is made on ground (f), it is necessary to understand the purpose of the notice. Section 173(4) of the 1990 Act states that the purpose of an enforcement notice is to (a) remedy the breach of planning control, or (b) remedy any injury to amenity which has been caused by the breach. The 1990 Act sets out that the breach may be remedied by making the development comply with the terms of any planning permission granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place.
7. In this case, given the requirements of the notice are to demolish the 3 storey building and to remove all of the materials used in its construction, it follows that the purpose of the notice is to remedy the breach of planning control.
8. There is little before me to explain why the appellant considers the steps to be excessive or to detail any proposed lesser steps. As previously mentioned, the appellant has chosen to withdraw and not progress a ground (a) appeal, that is to say that planning permission should be granted for the development. In the absence of a ground (a) appeal, and a deemed planning application, I am unable to consider the planning merits of the development. This includes the lengthy and drawn out planning history of the site, matters such as drainage, overlooking, privacy and access, and the misunderstandings and alleged injustices served to the appellant during the determination of the planning applications.
9. I am also aware that, in the time since the service of the enforcement notice, a separate Section 78 appeal on the site (Ref: 6001211), for 9 No. apartments on three levels with storage rooms in the roof space, has been dismissed. Nonetheless, any comments from the appellant in respect of the outcome of that appeal and potential alterations would be academic as in a ground (f) appeal I am simply faced with the question of whether the requirements are excessive.
10. As the notice does no more than seek remedy of the breach, it is not excessive. There are no lesser steps drawn to my attention or any obvious alternatives that would remedy the breach of planning control which is the purpose of the notice.
11. The appeal on ground (f) therefore fails.

### **Conclusion**

12. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections.

### **Formal Decision**

13. It is directed that the enforcement notice is corrected by:
  - The addition of the words “Without planning permission” before the words “The erection of a 3-storey building” in paragraph 3 a).

- The deletion of the word “permanently” in paragraph 5 a).

14. Subject to the corrections, the appeal is dismissed, and the enforcement notice is upheld.

*Mark Caine*

INSPECTOR