



Appeal Decision

Site visit made on 15 September 2026

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2026

Appeal Ref: APP/A1015/C/25/3374392

Markham House, Markham Road, Duckmanton, Chesterfield S44 5HP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Anthony Scott against an enforcement notice issued by Chesterfield Borough Council.
 - The notice was issued on 10 September 2025.
 - The breach of planning control as alleged in the notice is 'a change of use of the land has occurred from residential use to a mixed residential and storage use. This includes the storage of vehicles, including but not limited to motor vehicles, commercial vehicles, motor cycles, motor scooters, motor homes, shipping containers, trailers and caravans'.
 - The requirements of the notice are; 1. Cease the use of the land for the purpose of storage; 2. Remove all stored vehicles from the land, including but not limited to motorcycles, motor scooters and motor homes; 3. Remove all shipping containers, trailers, caravans, tyres and gas canisters from the land; and 4. Cease the mixed residential and vehicle storage use of the land, and revert to a residential Use Class C3 Use only.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(d), (f), (g) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The appeal is allowed and the enforcement notice is quashed.

Reasons

The ground (d) appeal

2. A ground (d) appeal is made when the Appellant claims that the alleged breach of planning control is immune from enforcement action through the passage of time. Section 171B of the Town and Country Planning Act 1990 (as amended) states that the unauthorised change of use of land will be immune from enforcement action after ten years. For the ground (d) appeal to be successful there must be sufficient precise and unambiguous evidence to justify a conclusion, on the balance of probability, that the breach of planning control commenced before 10 September 2015, and has subsisted without interruption up to the date of issue of the enforcement notice.

3. The Council issued an enforcement notice on 20 March 2008 (the 2008 EN) alleging, in brief, the change of use of the appeal property from residential use to a mixed use of residential and the parking and storage of commercial vehicles. Compliance with the requirements of the 2008 EN was recorded in January 2009 following a site inspection but the notice was not withdrawn until shortly before the appealed enforcement notice was issued. The Council claims that the latest EN "...was expanded beyond the scope of the 2008 EN to reflect the current nature of storage".

4. The Council has submitted photographs from 2008 and 2024. A yellow commercial vehicle with a lifting arm is in both sets of photographs and in both cases is blocked by other vehicles; so it is probable that this commercial vehicle was stored on the land in the same place between the dates of issue of the enforcement notices. More importantly, a Renault car, BG06XBW, appears in two photographs taken in 2008 and is in a list of vehicles currently stored on the land, and a Mercedes-Benz car, AY02YOD, appears in a 2008 photograph and is also in the list. It is probable that both vehicles were stored on the land between the dates of issue of the notices.

5. Precise photographic evidence indicates that two passenger vehicles and one commercial vehicle have been stored on the land since issue of the 2008 EN. It is probable, given the number and density of vehicles stored on the land, that other vehicles of both types have been stored on the land since compliance with the 2008 EN was recorded in early 2009. This was borne out by visual evidence gained at the site visit when it was seen, particularly away from the front part of the site, that vehicles of both types in various states of disrepair and overgrown are stored so close together that it is clear that they have not been worked on or moved for many years.

6. It is not known what occurred on the land for compliance with the requirements of the 2008 EN to have been recorded. Despite compliance with the requirements, photographs clearly show there to have been the same vehicles on the land in 2008 and 2024. Photographic evidence and site observations are sufficiently precise and unambiguous to justify a conclusion, on the balance of probability, that the breach of planning control commenced before 10 September 2015, and has subsisted without interruption up to the date of issue of the enforcement notice. The ground (d) appeal succeeds and the ground (f) and (g) appeals do not therefore need to be considered.

7. The Appellant has requested, if his ground (d) appeal is successful, that a Lawful Development Certificate (LDC) be issued for the use of the land that has been judged to have been immune from enforcement action. The successful ground (d) appeal has established the use that was lawful on the date of issue of the enforcement notice whereas an LDC would indicate the use that is lawful on the date of issue of this decision; there is more than one year between these dates and circumstances may have changed during this period. Furthermore, this decision makes no judgement on the level of use of the land for storage, which would be required to be included in an LDC, and there is no plan indicating precisely the parts of the property that are in storage use. For these reasons an LDC cannot be issued.

John Braithwaite

Inspector