



Appeal Decision

Site visit made on 6 October 2026

by Grahame J. Kean B.A. (Hons) Solicitor, MRTPI, MIPRoW

an Inspector appointed by the Secretary of State

Decision date: 12 October 2026

Appeal Ref: APP/X4725/C/25/3370603

Land north of Post Office Road, Featherstone, WF7 5EN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Mark Campbell of Featherstone Rovers Storage against an enforcement notice issued by Wakefield Metropolitan District Council.
 - The notice was issued on 27 July 2025.
 - The breach of planning control as alleged in the notice is MCU from sport to storage and highway maintenance depot and the erection of a 2 metre high Palisade and anti climb fence.
 - The requirements of the notice are:
 1. Cease the use of the Land for storage and as a highway maintenance depot.
 2. Remove the palisade and anti-climb fences shown blue on the attached plan.
 3. Remove all shipping containers, caravans, trailers, mobile offices, and other stored materials from the Land.
 - The period for compliance with the requirements is nine months of the date on which the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (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.
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Decision

1. It is directed that the enforcement notice is corrected as follows:
 - delete the words “MCU from sport to storage and highway maintenance depot and”;
 - substitute the plan annexed to this decision for the plan attached to the enforcement notice; and
 - delete the requirements of the notice except for the wording “Remove the palisade and anti-climb fences shown blue on the attached plan.”
2. Subject to the corrections, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended), for the development already carried out, namely the erection of a 2 metre high Palisade and anti-climb fence at Land north of Post Office Road, Featherstone, WF7 5EN as shown on the plan attached to the notice and subject to the following condition:
 - 1) The fencing hereby permitted shall be removed within 30 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 1 month of the date of this decision a scheme for landscaping based on the submitted Design Drawing dated 10/9/2025 titled Project Number 4484 but focussed on areas adjacent to the permitted palisade and anti-climb fencing shall have been submitted for the written

approval of the local planning authority and the scheme shall include a timetable for its implementation.

- ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Ground (d)

Material change of use

- 3. An appeal on this ground is that it is too late to take enforcement action for the breach of planning control alleged to have taken place. The appellant must demonstrate, on the balance of probabilities, that a material change of use from use as sports pitches to use for B8 storage and a highways depot (not disputed as a storage use) has been carried on continuously and without material interruption for ten years or more before issue of the enforcement notice, to meet the immunity period in s171B(3) of the 1990 Act. The material date is therefore 27 July 2015.¹
- 4. The Rugby Football League has commented² that with the adjacent site being home to Featherstone Rovers, it is familiar with the appeal site, stating that the land was used many years ago as a floodlit training field, but developments have now resulted in activity being moved onto other nearby pitches.
- 5. The appellant states that aerial imagery from Google Earth confirms that the last sporting use of the site ceased between 2009 and 2013 and since that time it has been used continuously for storage by the club and associated businesses. A marked change in the character of the site between these two dates is noted from the submitted Google Earth images for these two years.
- 6. The use for storage in shipping containers was first reported to the Council in March 2024. However, it is not disputed that the May 2013 image shows storage use on the land. The Council asserts that the current use for storage and a highway maintenance depot only began after June 2016 when previously the site was temporarily used as a compound in connection with the construction of new stands and an enlarged rugby pitch on the adjacent land.
- 7. Such a temporary use would have been permitted under Schedule 2, Part 4, Class A of Town and Country Planning (General Permitted Development (England))

¹ Not 7 August 2025 which I take to be an error as described in the appellant's statement, paragraph 5.1.

² Objection letter 22 April 2026 from Sport England containing replies to their own consultation exercise.

Order GPDO 2015 (as amended) (GPDO). It is a condition of such a permission that once the temporary use ceases, the land must be reinstated to its condition before the development took place.

8. The exact start date of the temporary use pursuant to the permitted development legislation is not known to the Council. It states that aerial images show it was prior to May 2019, but no image is submitted from that date. At any rate, the point is not explicitly made by the Council but is implicit from the way it has set out its case, that the current use for storage and highway maintenance depot, whenever it started after cessation of the temporary permitted use, re-started the clock for the purposes of gaining immunity from enforcement action.
9. In addition, the Council refers to the building control application 12/01529/OALFP said to show the stands were completed on 16 September 2015, less than ten years before the enforcement notice was issued. The Council points out that the aerial image dated June 2016 shows no new storage facilities to that of the image in May 2013. Indeed not. The images show a similar layout for a prominent central block of units, but the additional units scattered around, including those close to the stand under construction shown in the 2013 image, are missing from the 2016 image. The appellant states that at least from 2013 the site was used continuously for storage by the club and associated businesses. It appears likely that the dominant character of the site throughout this period is the commercial storage.
10. As for the construction of the stands, the publicly available building control portal site for application 12/01529/OALFP gives the "Application Commencement Date" as 11 April 2013. This provides persuasive evidence that physical work started on site at this time since applicants must give such notification at least 48 hours before starting work so that a building control inspector can view the open works. I find it likely that the physical construction phase began on or around 11 April 2013.
11. For these types of building control systems, the "completion date" usually reflects the date when the building inspector formally issued the completion certificate, rather than the date when the work was physically finished. The appellant clearly states that the stands were completed in February 2015, providing persuasive evidence of the same³ and that general storage commenced thereafter. The accuracy of this date is not gainsaid by the later issuing of a certificate in September 2015 confirming that the works had been approved as completed.
12. Consequently, it is not likely that a temporary use permitted by Part 4 of Schedule 2 to the GPDO would have continued after the stands were in fact completed, especially given that once the works were physically carried out, the temporary storage use had thereupon to cease. The precise wording of the condition, ie Condition A.2 (a) is:

"(a) any building, structure, works, plant or machinery permitted by Class A is removed, and (b) any adjoining land on which development permitted by Class A has been carried out is, as soon as reasonably practicable, reinstated to its condition before that development was carried out."
13. Therefore, I regard with some circumspection the Council's statement that *"the current use for storage and highway maintenance depot only began after June*

³ Final comments, paragraph 3.3 and see BBC news item dated 28 February 2015 announcing the unveiling of the new stands on the following Sunday.

2016.” It is likely in my judgement as a matter of fact and degree and on the balance of probability that such use began shortly after completion of the stand and cessation of the temporary use in about February 2015 when the works were in fact carried out, but in any event well before 27 July 2015 a date some five months thereafter. The club was in severe financial difficulties. It would not make sense or be practicable to have paused or delayed commercial storage uses where, as it appears, there was no good reason to do so.

14. I have considered whether, alternatively, there may have been an overlap with an unlawful commercial storage use eating, as it were, into the immunity period. However, a subsequent cessation of the temporary use would not automatically have stopped the clock. In *Philglow*⁴ cessation of one use with a single use remaining did not amount to a material change of use. There were two uses: use and maintenance of vehicles and plant for the extraction of sand and gravel from adjoining land (similar to the temporary use here) and use of vehicles and plant unconnected with the adjoining land. The first use ceased and a notice was served but the Court of Appeal found that inspector had not considered if there was a lawful use; there was no intensification of the continued use and the erroneous finding of a material change was due to the cessation of one component use.
15. Therefore, the issue here would be whether the change from both uses to one of them exclusively caused a change in the character of the use of the land as a whole. I cannot see that it would have done so. It is undisputed that the appeal site is a single planning unit. The Council’s case is not focused on a change in the physical character of the land but on the assumption that with the cessation of the temporary use a material change must then have occurred⁵.
16. As noted above, the dominant component of the site’s character has been the commercial storage use. Shipping containers were reported to the Council in 2024, and the use of the site may by then have intensified but this is not alleged to have precipitated the material change of use. The 2021 image, submitted to show the fencing was not then erected but not otherwise commented on, shows that storage of units and vehicles continued, albeit fewer in number than previously. The submitted information does not persuasively indicate that the commercial storage use was ever supplanted by the temporary use when the stands were being built.⁶
17. It follows in my view that since the Council submits no other persuasive evidence to contradict the appellant’s statement, it is probable that the material change of use for storage was begun and has subsisted for a continuous period of ten years prior to the issue of the enforcement notice.
18. In these circumstances it was too late to take enforcement action and the appeal on ground (d) succeeds.

Operational development

19. It is undisputed that the high galvanised fencing and anti-climb fencing was not erected more than 4 years prior to 25th April 2024, in accordance with the relevant transitional rules governing immunity periods, therefore it was not too late for the Council to take enforcement action.

⁴ *Philglow Ltd v Secretary of State for the Environment* [1984] 3 WLUK 39; (1986) 51 P. & C.R. 1

⁵ Appeal statement, paragraph 7.5.1 and 7.5.2: “only began after June 2016 when previously the site was temporarily used”.

⁶ In such circumstances there is no need to rely on s57(3) since the temporary use had not taken over the site entirely.

Conclusion on ground (d)

20. The breach of planning control alleged in respect of the use has subsisted for a continuous period of ten years prior and this part of the notice will be quashed. The merits of the operational development remain to be considered on ground (a).

Ground (a)

21. Applications for planning permission are to be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan includes the Wakefield District Local Plan 2036 (WDLP).
22. National policy in the form of the National Planning Policy Framework (NPPF) is, according to its own assertion, a material consideration of critical importance and for the purposes of decision making, even asserts (Annex A) that its national decision making policies (NDMP) are “*material considerations which must be taken into account in decision-making from the day of its publication*” despite the Government’s decision not to put the NPPF on a statutory basis⁷.
23. The Council’s reasons for objecting to the high fencing are that it is unsightly and adds to the clutter and therefore to the overall adverse effect on visual and residential amenities of the surrounding area. It does not consider that conditions attached to any eventual planning permission could overcome its objections.
24. The use of the site is immune from enforcement action and the Council’s objections are to the combined effect of the use and the boundary treatment. The fencing does not impact on the residential properties at the other end of the site. Other fencing by the stadium is similar to that at the appeal site which although not a compelling precedent, attenuates to some degree the visual harm caused.
25. The existing fencing is required to provide security for the site. It is a significant consideration that storage should be secure to be commercially viable. Given the close proximity to the stadium, where palisade fencing is a feature of the area, this also mitigates to some extent the visual impact of the unauthorised fencing.
26. The Council appears to object to the fencing for the additional reason that it denies public access but there is no evidence that supports the implied assertion that there were public rights of way across or through the land now owned by the appellant, albeit that previously it may well have been land that was open and in respect of which there could possibly have been some permissive access afforded to the public across the former sports fields. I do not give weight to this factor.
27. A public footpath adjoins the east side of the site, from whence views obtained over the former sports field. The issue now however is what effect the fencing has, not the use that has gained immunity. The fencing is in some part obscured by vegetation along several sections of the eastern boundary, which in turn serves to break up the continuous line of metalwork where the public path lies. A layout plan is included which proposed a reconfiguration of the site and would provide additional landscaping. Whilst the use cannot be regulated in this appeal, a condition requiring landscaping aimed at the appearance of the fencing would be appropriate to avoid unduly significant adverse impacts on the character and appearance of the area, including enjoyment by users of the way in question.

⁷ National Planning Policy Framework: proposed reforms and other changes to the planning system, updated 17 August 2026: “We decided...not to commence powers at this stage which would place national policies for decision-making on a statutory basis.”

28. NDMP DP3: Key principles for well-designed places, states at DP3.1 that development should respond to its context so that they integrate with and enhance their surroundings. I find that the security imperatives for the commercial storage undertaking on this particular site would provide the necessary clear justification in terms of NDMP 3.3 in so far as there is conflict with paragraph DP3.1.
29. Subject to a suitably worded condition, the development would accord with the key policies of the Wakefield Local Plan 2036, ie Policies LP55, (impact on landscape), LP56 (design of new development) and Policy LP59 (landscape design) in that it would respect the character, function and overall quality of the locality and integrate with the wider landscape appropriate to the development.
30. The benefits of granting permission would not be substantially outweighed by any adverse effects, when assessed against the NPPF national decision-making policies. The development would comply with the development plan as a whole.
31. I should point out that the condition to be attached will be in retrospective form, given the importance of ameliorating the appearance of the fencing in this appeal, so the issue must be addressed within the next month, otherwise the fencing would have to be removed in accordance with the terms of the permission.
32. For the above reasons planning permission should be granted.

Conclusion

33. For the reasons given above I conclude that the appeal on ground (d) should succeed in part only, and I will correct the enforcement notice to remove the allegation and requirements relating to the material change of use to storage and highway maintenance depot, but otherwise I will quash the notice as corrected and grant planning permission subject to a condition in respect of the 2 metre high Palisade and anti-climb fence. The appeal on ground (g) thus falls away.

Grahame J. Kean

INSPECTOR

Scale: Not to scale

