Planning Inspectorate

Appeal Decision

No site visit made

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date 05 November 2026

Appeal Ref: APP/X4725/C/25/3375604
Land on the southwest side of Wakefield Road, Fitzwilliam, Pontefract WF9 5BP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act").
- The appeal is made by Mr James Mann of AJPM Properties against an enforcement notice ("EN") issued by the Council of the City of Wakefield.
- The EN was issued on 2 October 2025.
- The breach of planning control as alleged in the EN is: Without planning permission, the material change of use of the Land from retail to a mixed use of retail and storage siting of two shipping containers, on the land.
- The requirements of the EN are to:
  i. Cease the use of the Land for storage.
  ii. Remove the shipping containers from the Land.
- The period for compliance with the requirements is: 28 days.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the 1990 Act.

Decision

1. It is directed that the EN is corrected and varied by:

   - *the deletion of the entirety of the alleged breach of planning control in section 3 of the EN and its substitution with the words "Without planning permission, the material change of use of the Land from retail to a mixed use of retail and storage including the siting of two shipping containers on the land"; and*

   - *the deletion of "(i) Cease the use of the Land for storage" and its replacement with "(i) Cease the mixed use of the Land" in section 5 of the EN.*

2. Subject to the correction and variation, the appeal is dismissed and the EN is upheld.

Matters Concerning the Notice

3. The alleged breach of planning control includes the material change of use from retail to a mixed use of retail and storage. However, step (i) of the requirements only seeks the cessation of the storage use. As a mixed use is alleged, then step (i) must require the mixed use to cease. I will therefore vary step (i) accordingly. This variation would still secure the cessation of the storage use and would not prevent the resumption of the last lawful use of the land. Therefore, I am satisfied that it would cause no injustice to the main appeal parties.

4. There appears to be some text missing from the alleged breach of planning control as the current description is not entirely legible. Therefore, I must correct it. As this is for precision; the appellant has accurately identified the allegation; and

correcting it would not alter what is alleged, I am satisfied that it would not cause injustice to the main appeal parties.

5. Section 4 of the EN states that it appears to the Council that the breach of planning control occurred within the last four years. However, the relevant period for a material change of use is 10 years. The Council's appeal statement correctly states the 10 year period and therefore, it appears that the inclusion of four years within the EN was in error.

6. The appellant does not dispute that the breach of planning control has occurred and the evidence before me suggests that the shipping containers were sited on the Land circa October 2023; within four years of the EN being issued. Consequently, the inclusion of the incorrect timeframe would not have caused the appellant injustice. For these reasons, the EN is not invalid in this regard.

Preliminary Matters

7. The EN has been appealed under grounds (f) and (g) therefore, the planning merits of the development are not relevant to this appeal. As such, a site visit would not help me reach a decision. Consequently, I advised the main appeal parties of my intention to determine the appeal without a site visit.

8. I acknowledge the comments of an interested party. However, they raise matters that are planning merits which I cannot consider under grounds (f) and (g). Consequently, their comments have not had an influence upon my decision.

Appeal on Ground (f)

9. An appeal under ground (f) is that the steps required by the EN to be taken, or the activities required by the EN to cease, exceed what is necessary to remedy the breach of planning control or any injury to amenity.

10. The steps (as varied) require the mixed use to cease and the shipping containers to be removed from the land. The purpose of the EN is therefore to remedy the breach of planning control.

11. The appellant asserts that the shipping containers are necessary to provide storage facilities for their business; that the shipping containers could be re-sited to resolve concerns with sightlines; and they have offered to remove one shipping container and set one further back. I do not have a ground (a) appeal before me, nor has the necessary fee been paid, therefore I am unable to take these matters into consideration.

12. Any step lesser than the cessation of the mixed use and the removal of the shipping containers would not remedy the breach of planning control. Therefore, the EN's requirements are not excessive.

13. For these reasons, the appeal on ground (f) fails.

Appeal on Ground (g)

14. An appeal under ground (g) is that the period specified for compliance within the EN falls short of what should reasonably be allowed.

15. The period for compliance is 28 days. The appellant asserts that the shipping containers are essential to their business operations and they would be unable to

source alternative storage space within the timeframe stipulated. However, the appellant has not provided an alternative timeframe for my consideration.

16. It is necessary for me to consider the time that has elapsed since the EN was issued when deciding what period of compliance is reasonable. The appellant submitted their appeal on 9 November 2025. Therefore, they have had almost a year to search for alternative storage space.

17. The requirements (as varied) seek the cessation of the use of the land and for the removal of the shipping containers. I have not been provided with substantive evidence that either requirement could not be achieved within 28 days, particularly as the two shipping containers need only to be lifted onto a vehicle and transported away from the land.

18. Accordingly, I find that the 28 day compliance period afforded by the EN is proportionate in the circumstances and does not fall short of what is reasonable.

19. The appeal under ground (g) therefore fails.

Conclusion

20. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the EN with a correction and variation.

A Berry

INSPECTOR