



Appeal Decision

Site visit made on 29 July 2013

by **D C Pinner BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 July 2013

Appeal Ref: APP/W0734/C/12/2188581

Land to the rear of Linthorpe Community Infants School, Roman Road, Middlesbrough TS5 6AE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Tees Valley Property Services Limited, acting by its receivers Anthony Josephs and Linda Farish both of Mrs Juliette Bradbury against an enforcement notice issued by Middlesbrough Borough Council.
- The notice was issued on 30 October 2012.
- The breach of planning control as alleged in the notice is without the benefit of planning permission an unauthorised use has occurred on the land marked red on the plan attached to the enforcement notice as a B8 scrap vehicle storage place.
- The requirements of the notice are:
 - (a) Cease with immediate effect the use of the land for the storage of scrap vehicles and;
 - (b) Remove all scrap and untaxed vehicles from the land.
- The period for compliance with the requirements is within one month of the notice coming into effect.
- The appeal is proceeding on the grounds set out in section 174(2) (f) and (g) of the Town and Country Planning Act 1990 as amended.
- Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

Decision

1. I direct that the enforcement notice be corrected and varied as follows:
 - i) by the deletion of the words under the heading in section 3 of the notice and their substitution with the words "without planning permission, the material change of use of the land marked red on the attached plan to use for storage of scrap and untaxed motor vehicles";
 - ii) by the deletion of the words "with immediate effect" from item 1) of the requirements.
2. Subject to those corrections and variations, I dismiss the appeal and uphold the notice as corrected and varied.

The notice

3. The enforcement notice is badly drafted in a number of respects, but I am satisfied that I can correct and vary it as required without causing injustice. In particular, the allegation should be expressed directly and the tautological use of "without the benefit of planning permission" and "unauthorised use" should

be avoided. In item 1) of the requirements, it is incorrect to require something to happen with immediate effect because an enforcement notice must contain a period for compliance. As item 2) refers to untaxed vehicles, that description must also be included in the description of the alleged breach of planning control.

Ground (f)

4. The notice was served to remedy the breach of planning control. The appellants have not said what lesser steps would remedy the breach, but clearly there are no lesser steps because the breach could only be remedied by ceasing the use and removing the vehicles from the land. I conclude that the appeal on ground (f) should fail.

Ground (g)

5. When I visited the site, I saw that the vehicles had been removed and the land had been fenced to prevent vehicular access onto it. As the notice has been complied with already, the period for compliance is clearly adequate. I conclude that the appeal on ground (g) should fail.

David C Pinner
Inspector