



Town and Country Planning (Scotland) Act 1997 Appeal Decision Notice

Decision by Stephen Hall, a Reporter appointed by the Scottish Ministers

- Enforcement notice appeal reference: ENA-270-2089
- Site address: Reduit House, Culloden Moor, Inverness, IV2 5EG
- Appeal by Horsepower Cars against the enforcement notice dated 12 March 2026 served by the Highland Council
- The alleged breach of planning control: The storage and sale of motor vehicles carried out without the required planning permission
- Date of site visit by Reporter: 18 June 2026

Date of appeal decision: 16 September 2026

Decision

I uphold the enforcement notice but allow the appeal to the extent that I vary the terms of the notice by amending section 4i to read:

“i.

- Cease the unauthorised commercial use of the land for the storage, preparation or sale of motor vehicles.
- Remove from the land all vehicles associated with the unauthorised commercial activity, including vehicles stored for sale
- Remove from the land any materials associated with the unauthorised commercial vehicle operation.
- Restore the land to its lawful use as a dwellinghouse and domestic garden ground, ensuring that any remaining vehicles or activities are clearly incidental to normal residential enjoyment of the property.”

Subject to any application to the Court of Session, the enforcement notice takes effect on the date of this decision, which constitutes the determination of the appeal for the purpose of Section 131(3) of the Act.

Preliminary Matter

The decision notice for case CLUD-270-2012 considers a separate appeal against the refusal by the Highland Council to issue a certificate of lawful use for the use of a wider area of land for vehicle storage associated with a vehicle dealing business. My decision in that case should be read in conjunction with this decision.

Reasoning

1. The appeal against the enforcement notice was made on the following grounds as provided for by section 130(1) of the Act:

- (b) that the matters which, by virtue of section 128(1)(a) have been stated in the notice, have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control; and
- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.

Has the land been used for the storage and sale of motor vehicles? (Ground (b))

2. Section 2 of the notice describes the breach of planning control as the storage and sale of motor vehicles without the required planning permission. There is no dispute that the land subject to the enforcement notice is in use for the storage of vehicles for sale on a commercial basis. This is acknowledged by the appellant, and I confirmed this to be the case when I visited the site.

3. The appellant points to the references to car preparation in section 3 of the notice, and to the repair and preparation of motor vehicles in section 4, and argues that these activities have not occurred. However, I find that it is section 2 of the notice that is directly responding to the requirement in section 128(1)(a) of the Act to state the matters which appear to the authority to constitute the breach in planning control. Section 3 of the notice comprises a narrative setting out the council's reasoning for issuing the notice, but is not intended to describe the breach. Section 4 of the notice lists what the appellant is required to do, and again this section does not set out to describe the breach itself. I therefore conclude that the proper interpretation of appeal ground (b) is that it relates to section 2 of the notice, and that the matters described in section 2 have occurred. The appeal under ground (b) therefore fails.

Does the use of the land for the storage and sale of motor vehicles constitute a breach in planning control? (Ground (c))

4. There is no dispute that a commercial car sales business is being operated from the appeal site, or that the site is being used for storage of vehicles in connection with this business. In the course of my site visit I observed a large number of such cars being stored in the yard in the western part of the appeal site. I also observed that the large garage attached to the Reduit House had something of a commercial character including a tiled floor and lighting akin to what might be expected in a commercial car showroom. While I acknowledge the possibility that a car enthusiast might also specify a garage interior of this type, the labelling of the toilet door was indicative of some commercial use. Overall I am satisfied that the appeal site is being used for car storage and commercial purposes at a level that is materially different from a purely residential use.

5. Any material change in the use of land to use for the storage and sale of motor vehicles constitutes development under the terms of the Act. There is no suggestion that any permitted development rights apply in this case. The appellant does not appear to dispute that the use of the land for the storage and sale of motor vehicles constitutes development, but rather argues that this is immune from enforcement action due to the passage of time.

6. My decision in case CLUD-270-2012 addresses the matter of whether the use of the land subject to the enforcement notice for vehicle storage associated with a vehicle dealing

business is lawful on the basis of its having been established for a period of ten years and therefore being immune from enforcement action. In summary, my conclusion in that case (which covered a larger area of land) is that, on the balance of probability, the use of this parcel of land for vehicle storage commenced after 2021, and that the use is not therefore lawful.

7. Case CLUD-270-2012 also addresses a separate area of land to the north that is not subject to this enforcement notice, and concludes that use of this northern land parcel commenced more than ten years before the date of the application for the certificate, and has continued since then, without abandonment. However, this northern area is a separate planning unit and my conclusions in relation to it are not directly relevant to this appeal.

8. I therefore conclude that the use of the land subject to the enforcement notice for the storage and sale of motor vehicles does constitute a breach in planning control. The appeal under ground (c) therefore fails.

Do the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach? (Ground (f))

9. At section 4, the notice itemises, within five broad bullets, the actions required of the appellant. The appellant argues that these include ceasing activities (such as the repair and preparation of vehicles) and removing items (such as machinery) that are not present on the site, and the steps required are therefore excessive.

10. I acknowledge the council's concerns about the risks of under-enforcement. However, the evidence before me (including receipts from off-site businesses and the expressed opinions of enforcement officers in emails) points strongly to the likelihood that car repair and maintenance activities principally take place away from the property. The situation with regard to the preparation of cars is less clear. The applicant's evidence indicates that this is also undertaken off site. However, I note the various photographs and diary excerpts that have been submitted by a neighbour. Some photographs appear to show cleaning or polishing of vehicles, and the diary excerpts record car polishing and washing. On the balance of probability, it seems most likely to me that some limited preparation works (cleaning and polishing, but not full-scale valeting) are likely to have been occurring on the appeal site. I therefore consider the reference to 'preparation' in the notice should be retained. However, I have seen no convincing evidence of any repair work being carried out, or that any material quantity of tools, machinery or vehicle parts are stored on the site. I have therefore amended the notice to remove these references.

11. If activities or items are identified on the site in the future which fall outside the description of the breach given at part 2 of the notice, I see no obstacle to further enforcement action being taken in relation to these if justified.

12. Given my conclusion in case CLUD-270-2012 that the use of adjoining land for vehicle storage is lawful, I have also removed the requirement to cease advertising and promotion. This could have caused confusion and difficulties for any ongoing business use on the adjoining land.

13. The appellant also argues that the requirement to restore the land to use as a dwelling house and domestic garden ground is excessive because a dwelling house is not a use and the form of garden treatment required is not stipulated. With regard to these

matters, I find the description of a use of land as being for a dwellinghouse to be common practice and therefore reasonable. I also find the reference to domestic garden ground to be clear and capable of easy interpretation. It would be excessive and unnecessary in this case for the notice to require particular garden treatments (as for instance areas of lawn or herbaceous planting).

14. Parties also refer to, and dispute, the amenity impacts of the use. I have noted the council's concerns and the appellant's submissions on this matter. The appeal cannot turn on this point however, as it is not possible for me to specify lesser steps via a variation to the notice, which would be sufficient to address the effects on amenity but insufficient to remedy the breach of planning control. This is because the notice was served in order to remedy both the injury to amenity and the breach of planning control. In any event, the actions required in the amended notice, including ceasing unauthorised commercial use of the land for the storage, preparation or and sale of motor vehicles, would, at least in part, remedy the injury caused by the breach.

15. As regards whether lesser steps than complete cessation of the use might address the breach of planning control, it is not my role to consider on a hypothetical basis whether that might be possible. I am satisfied that what is required by the notice does not exceed what is necessary to remedy the breach of planning control.

16. For the reasons stated in paragraph 10, I therefore conclude that the steps required by the notice exceed what is necessary to remedy the breach in planning control. The appeal therefore succeeds with regard to ground (f), and I vary the notice accordingly.

Other Matters

17. I note the material submitted relating to the council's actions with respect to matters including the timing of the serving of the notice while the appeal against the refusal of the application for a certificate of lawful use was still current. However, my role is limited to considering the appeal that is before me. I also note the material relating to a potential intensification of the use over time, and to engineering works at the site. The alleged physical land-raising of part of the appeal site is not the subject of this enforcement notice (which is concerned with the use of the land only) or mentioned in it, and I note that this alleged development is the subject of separate enforcement action by the council.

18. Nothing in this decision is intended to constitute any opinion on the desirability or otherwise of this use, or as to whether any application for planning permission should be approved or dismissed.

Stephen Hall
Reporter