



---

## Appeal Decision

Site visit made on 17 February 2020

**by B.S.Rogers BA(Hons) DipTP MRTPI**

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

**Decision date: 20 February 2020**

---

**Appeal Ref: APP/N4205/X/19/3235312**

**Car Park adjacent 4-6 Brightmet Street, Bolton, BL2 1BR**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by ParkingEye Ltd against the decision of Bolton Metropolitan Borough Council.
  - The application Ref: 06222/19, dated 22 May 2019, was refused by notice dated 26 July 2019.
  - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
  - The use for which a certificate of lawful use or development is sought is the retention and continued use of land as a pay and display car park.
- 

### Decision

1. The appeal is dismissed.

### Reasons

2. For the use as described above to be considered lawful, the appellants would need to show that it falls into one of the following categories: i. it does not require planning permission; ii. it benefits from an extant planning permission; or iii. it is exempt from enforcement action. The planning merits of the use are not matters which are before me.
3. Use of land as a car park is a material change of use of land, which is a form of development as defined in S.55 of the Act. There are no permitted development rights for use of land as a car park in the Town and Country Planning (General Permitted Development) (England) Order 2015 and therefore planning permission would be required.
4. Indeed, temporary planning permission was granted in January 2013 for the continuation of use of the appeal site as a car park. A further temporary planning permission was granted in July 2015 (Ref: 92733/14). This contained a condition requiring the use to cease on 31 July 2017. There has been no subsequent grant of permission for use as a car park and therefore there is no extant permission.
5. The use would be exempt from enforcement action if the appellants could demonstrate, on the balance of probability, that it had been operated in breach of planning control for a continuous period of more than ten years prior to the date of the LDC application, 22 May 2019. They have submitted a Google earth image dated January 2000, which seems to show the land laid out as a

car park at that time. However, the business rates documents submitted by the appellants appear to indicate that this formed an ancillary part of a more extensive combined car showroom and premises until split into two individual rateable businesses in April 2010. It appears that the use as a separate car park may have commenced around that time and, if so, operated in breach of planning control for less than three years until operated lawfully between January 2013 and July 2017, in accordance with the two temporary planning permissions referred to in para.4 above.

6. After July 2017, the use was operated in breach of planning control for less than 2 years prior to the date of the LDC application. Accordingly, there has not been a continuous breach of planning control for more than ten years and the use is not exempt from enforcement action.
7. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the retention and continued use of land as a pay and display car park was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

*B.S. Rogers*

Inspector