
Appeal Decisions

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 03 October 2022

Appeal Ref: APP/J4423/C/22/3298932

Land between 264 and 270 and to the rear of 270 Handsworth Road, Sheffield S13 9BX

- 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 Mr F J Gould against an enforcement notice issued by Sheffield City Council.
 - The enforcement notice is dated 14 April 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission, the change of use of the Land to the use for motor vehicle sales, display of vehicles for sale and associated storage/parking of motor vehicles.
 - The requirements of the notice are: i. Cease the use of the Land described in paragraph 3 of the notice. ii. Remove from the Land the motor vehicles associated with the use described in paragraph 3 of the notice. iii. Remove from the Land the portable sales building and the storage building and all other, equipment, items and materials associated with the use described in paragraph 3 of the notice.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice be corrected by:
 - the deletion of all the text of the allegation and its replacement with the text: 'Without planning permission, the material change of use of the Land to the use for motor vehicle sales, display of vehicles for sale and associated storage/parking of motor vehicles.'; and
 - the deletion of the enforcement notice plan and its replacement with the plan below.
2. The appeal is dismissed, and the enforcement notice, as corrected, is upheld.

Preliminary Matters

3. The determination of this appeal relates only to ground (g), which is a matter of mitigation. As I was able to assess the case from the written evidence alone, with the agreement of the main parties, it was not necessary for me to carry out a site inspection.

The enforcement notice

4. With regard to the wording of the notice, it alleges the 'change of use of the land...'. The allegation is imprecise in that it refers to a 'change of use',

whereas to reflect the definition of the term 'development' in s55(1) of the Act, it should state a 'material change of use of the land'.

5. Within his submissions, the appellant indicates that the plan attached to the enforcement notice is incorrect, and takes in land belonging to the neighbouring property at 264 Handsworth Road. He includes a site plan which is the same as the one submitted with his planning application ref: 22/01397/FUL. In the interests of precision, I direct that the enforcement notice be corrected to include the revised site plan provided by the appellant.
6. I am satisfied that these corrections do not cause any injustice, or make the notice more onerous.

Ground (g)

7. The appeal on ground (g) is that the time given to comply with the notice is too short.
8. The appellant's case is that he has applied for planning permission, ref: 22/01397/FUL, for the unauthorised development that is alleged in the enforcement notice. He argues that the compliance period should be extended to 18 months to allow time for the Council to determine application ref: 22/01397/FUL and to factor in time for an appeal should it be refused. I note that this application was refused on 16 June 2022.
9. At the time of writing of this decision, it appears that no appeal has been made against the refusal of the application. The appellant states that he has six months to appeal, which would be until December 2022.
10. However, ground (g) relates to the time given to comply with the requirements of the notice. The key question is whether this is a reasonable time to allow those requirements to be carried out. The notice requires the removal of vehicles from the land, as well as the removal of two buildings and all other equipment and materials. Of these, the most time consuming would be the removal of the buildings. However, this will not be particularly complex an operation. There is no evidence that it could not be done within six months, even allowing for time to engage third parties to carry out the work if needed.
11. Moreover, it would not be tenable to allow well over a year for compliance, as the appellant requests. This would be tantamount to granting a temporary permission for the development. To allow the identified harm to persist for such a long period would not be justified, would call into question whether it was expedient for the Council to enforce in the first place, and would erode the confidence of the public in the efficacy of the planning system.
12. I am therefore satisfied that the time period given in the notice is commensurate with the steps required. I am mindful that the Council has discretionary powers under s173A(1)(b) of the Act to extend any period for compliance, and they have indicated that they will consider this.

Conclusion

13. The appeal on ground (g) therefore fails. The appeal is dismissed and the enforcement notice, as corrected, is upheld.

Elaine Gray INSPECTOR



Plan

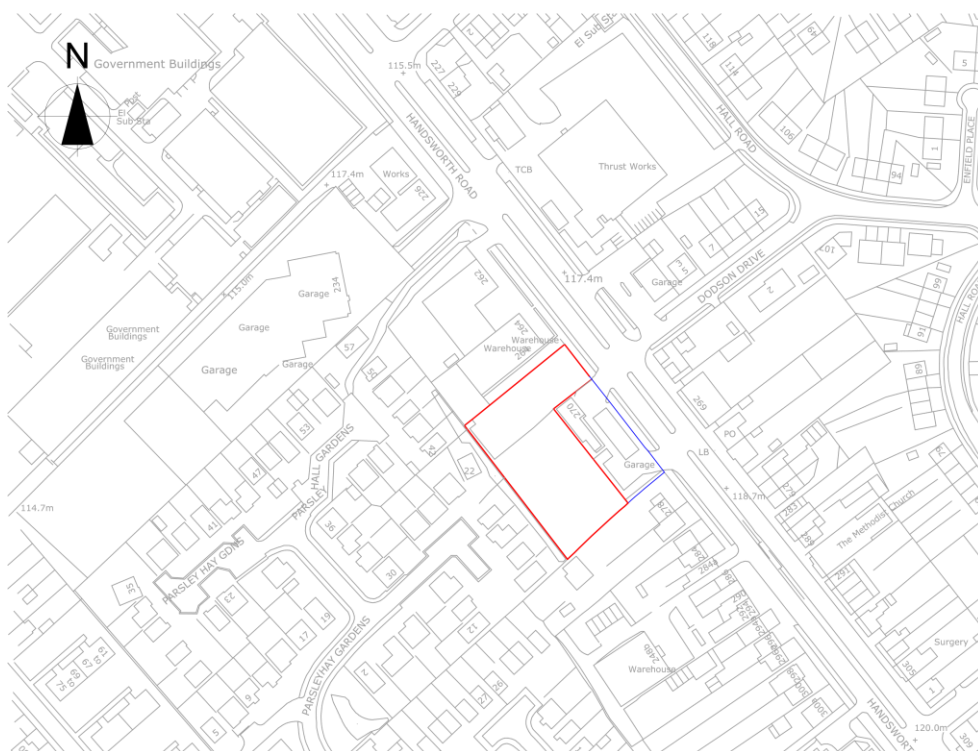
This is the plan referred to in my decision dated: 03 October 2022

by **Elaine Gray MA(Hons) MSc IHBC**

Land at: Land between 264 and 270 and to the rear of 270 Handsworth Road, Sheffield S13 9BX

Reference: APP/J4423/C/22/3298932

Scale: Not to scale



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Revision Rev. A - 06.01.20 To LPA comments		
Client Ravent Ltd		
Project No: 17/005	Project Title 270 Handsworth Road, Handsworth, Sheffield	
Drawing No: 001	Drawing Title SITE LOCATION PLAN	
Revision: A	Drawn By: PH	Approved By:
Date: Sept 2011	Scale: 1:1250@A3	
Drawing Status: PLANNING		