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## Appeal Decision

Site visit made on 7 May 2025

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2025

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**Appeal Ref: APP/J4423/C/24/3348421**

**Land opposite Sheringhs House (also known as Worldways House), Park House Lane, Sheffield, S9 1XA**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Surinder Gill against an enforcement notice issued by Sheffield City Council.
- The notice was issued on 17 June 2024.
- The breach of planning control as alleged in the notice is 3.1 Without planning permission the execution of the following unauthorised operational development;
  - (i) the execution of earthworks to cause the removal a sloped embankment (together with trees and landscaping on the embankment) and
  - (ii) the regrading the embankment to create a flat surface and
  - (iii) the provision of a hardstanding on the Land (shown within the attached photographs 1, 2 and 4 below) to create vehicular parking spaces.3.2 Without planning permission the material change of use of the Land to use as a parking area for motor vehicles.
- The requirements of the notice are to:
  - (i) Cease the use of the Land as a vehicular parking area and remove all motor vehicles from the Land.
  - (ii) Remove the tarmac/hardstanding from the Land.
  - (iii) Regrade the Land to its former topography prior to the earthworks taking place (as shown in photograph 3) using sub soil as a sub base and top soil but not using any waste aggregate or other waste or dumped material.
  - (iv) Plant within the planting season being (1<sup>st</sup> November to 31<sup>st</sup> March) 4 extra heavy standard trees being of the following species; Ginko Biloba (ginko), Malus Sylvestris (crab apple), Prunus Spinosa (blackthorn) and Crataegus Monogyna (hawthorn) in the locations shown on the attached plan with spaced dots.
  - (v) Remove from the Land any waste materials arising from compliance with paragraphs (ii)-(iv).
- The periods for compliance with the requirements are:
  - One week for paragraph 5 (i)
  - 3 months for paragraphs 5 (ii) to (iii)
  - 9 months for paragraphs 5 (iv) and 5 (v).
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

**Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with variations in the terms set out below in the Formal Decision.**

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### The ground (a) appeal

1. The main issues are the effect of the development on the character and appearance of the area; and the effect on highway safety.

#### *Character and appearance*

2. The appeal site is a rectangular area of land on the eastern side of Park House Lane which, prior to the unauthorised development, formed part of the green embankment

which slopes up from road level to the boundary with the playing fields and sports facilities beyond.

3. Park House Lane is a cul-de-sac serving large industrial premises which are situated on the western side of the road. By contrast, there are shrubs and trees lining the verge and embankment on the eastern side of the road, which is largely unmanaged and overgrown. Whilst not of high landscape quality, the embankment has a verdant character which contributes positively to the area's character and forms a buffer between the industrial area and the playing fields.
4. The enforcement notice relates to works to the embankment to create a level surface including the removal of vegetation, to facilitate the change of use of the land to a vehicle parking area for the employees of the appellant's business at Sheringhs House which is on the opposite side of the road.
5. The site is on the boundary of an Area of Open Space and a Fringe Industry and Business Area, as allocated within the Sheffield Unitary Development Plan 1998 (UDP). The Council considers that the principle of the development is acceptable in land use terms, and I have no reason to find otherwise.
6. The Council states that the development has resulted in the loss of shrubbery and self-set trees. Whilst the appellant says that no trees have been affected, they acknowledge that shrubs have been removed. The loss of this greenery, together with the excavation of part of the embankment, and its replacement with an expanse of tarmac surfacing with vehicles parked upon it, has created an uncharacteristic break in the green verge in this prominent roadside location which detracts from the verdant character of the area.
7. Some mature trees to the rear of the site have been retained. However, there are no substantive details before me of the nature and extent of the root areas of these trees or those adjacent to the site to enable an assessment to be made of the impact on the root areas. That said, these trees do not have statutory protection and there are other groups of trees further along the embankment which are unaffected by the development. Nevertheless, due to the excavation works to the embankment and proximity of the new hard surfacing to the trees on and adjacent to the site, I consider that the likely effects on their roots could lead to their deterioration or loss, which adds to my concerns with respect to the effects of the development on the area's character and appearance.
8. The retained vegetation and proposed hedgerow to the rear of the site would provide a green background, but would not screen the large new area of hardstanding or the parked vehicles, and therefore would not sufficiently mitigate the adverse visual effects of the development.
9. I conclude that the development results in harm to the character and appearance of the area and is contrary to Policies BE6 and GE15 of the UDP and Policy CS74 of the Sheffield Development Framework Core Strategy 2009. Amongst other things, these policies seek to ensure that development is well designed, appropriately landscaped, and protect and encourage trees and woodland. Whilst these policies pre-date the National Planning Policy Framework (the Framework), they are broadly consistent with it, and I give significant weight to the conflict with them.

10. The Council also refers to Policy BE5 of the UDP; however, this policy relates to building design and siting which is of limited relevance to this appeal since there are no buildings involved, and I have identified no conflict with it.

*Highway safety*

11. At the time of my site visit on a midweek morning, I observed a moderate volume of vehicle movements along Park House Lane, including several HGVs, entering or leaving the industrial premises which it serves. A footway lines the western side of the road but not the side adjacent to the site, and there is a slight curve in the road here. As it is not a through route, and vehicles are either turning into or out of the industrial premises, vehicle speeds appeared to me to be generally quite low. I noted that the premises are served by their own yards and car parks which perhaps explains why there was not a high level of on-street parking during my visit. Whilst only a snapshot in time, I have no reason to suppose that this situation was not representative of the typical road conditions here.
12. The development provides parking for about 20 vehicles. Although the site is of considerable length, it is just of sufficient depth for a standard vehicle to park clear of the highway. There is insufficient space for a vehicle to turn within the site so they must either be reversed in or out of the parking bays onto the public highway.
13. Visibility for a driver emerging from the parking bays onto the highway is limited, particularly to the north west, due to the position of the site close to the curve in the road and the tree cover along the verge bordering the site and other parked vehicles obstructing sightlines. This is of particular concern in relation to a driver reversing out on to the road or for vehicles emerging from that part of the site closest to the bend, where visibility is even more limited.
14. Although I acknowledge that Park House Lane is not a through route and that vehicle speeds appear to be relatively low, this lack of visibility could lead to a potentially hazardous situation not only for a driver emerging from the site but also for other road users approaching it, and is not in the best interests of highway safety. As the appellant does not appear to control the land to either side of the site, visibility cannot be improved through the maintenance of vegetation on the verges without the agreement of others, which cannot be assured.
15. Whilst the appellant would be willing to stipulate that cars are to reverse into the bays, this was not being observed at the time of my visit. I also note the suggested erection of signage to alert drivers to 'a blind access ahead', but no substantive details have been provided and this would not in any case address my concerns regarding restricted visibility for vehicles emerging from the site.
16. I conclude that the development compromises highway safety. It conflicts with UDP Policy IB9 which, amongst other things, requires development in Industry and Business Areas to provide safe access and appropriate off-street parking. I also find conflict with paragraph 116 of the Framework which advises that development proposals should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative effects on the road network would be severe.

### *Other matters*

17. The appellant contends that the development has removed the opportunity for fly tipping on the site, which has been a recurrent problem here, and other instances of anti-social behaviour, and has resolved the issue of lack of maintenance. It is also said to have increased safety for employees parking and returning to their vehicles. Whilst I have had regard to these matters, I am not persuaded that the appeal development is the only way of addressing them or that there are no other, less harmful solutions.
18. The appellant contends that the development provides off-street parking for nearby businesses, thereby removing some parking from the highway and potential obstruction of business accesses, and enables larger vehicles to manoeuvre. However, there was little evidence of parking pressure or inconsiderate parking at the time of my site visit and the business premises have off-street parking provision and yard space for manoeuvring. The development does not provide sufficient space for vehicles to manoeuvre within the site clear of the public highway. These matters do not therefore justify the harm to highway safety.
19. The hedgerow proposed to be planted to the rear boundary of the site would potentially provide a biodiversity net gain, though the extent of this has not been quantified and any benefits in this regard would likely be limited given the size of the site. Therefore, this matter does not outweigh the harm identified.
20. The Council contends that the harm arising from allowing the appeal could be repeated on adjacent sites, having regard to the principle of consistency in decision making. Related to this is the appellant's point that a precedent has already been set for this type of development in two other locations, though substantive details have not been provided. Given that each application and appeal must be determined on its own merits, this matter has not been decisive.

### *Conclusion on ground (a) appeal*

21. The development is harmful to the character and appearance of the area and highway safety. It is therefore contrary to the development plan as a whole, and there are no other material considerations, including the provisions of the Framework, which outweigh this finding.

### **The ground (f) appeal**

22. The appeal on ground (f) is that the requirements of the notice exceed what is necessary. When an appeal is made on ground (f), it is necessary to understand the purpose of the notice. Section 173(4) of the 1990 Act sets out the purposes which an enforcement notice may seek to achieve, either wholly or in part. These purposes are either (a) the remedying of the breach of planning control or (b) remedying any injury to amenity which has been caused by the breach. In this case, the requirements of the notice are, in summary, to cease the use of the land as a parking area, remove the hardstanding and vehicles from the land, regrade it to its former condition, and provide new planting. The purpose of the notice is therefore to remedy the breach by restoring the land to its previous condition.
23. It is not excessive to require the unauthorised use to cease and the land be restored to its previous condition. However, whilst the site was in an overgrown state and vegetation has been removed, there is no substantive evidence before me to show

the extent of planting on the site prior to the development, let alone any evidence that four trees have been removed. The requirement of the notice for the planting of four extra heavy standard trees therefore represents an improvement to the land and exceeds what is necessary to remedy the breach of planning control. It is, however, important that the land is restored to its condition prior to the development. I shall therefore vary the requirements of the notice to remove the requirement to plant four new trees, and instead require that the land be restored to its previous condition, together with a related variation to the compliance period.

24. To that extent, therefore, the appeal on ground (f) succeeds.

### **Conclusion**

25. For the reasons given above, I conclude that the appeal should partially succeed on ground (f) only. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the deemed application.

### **Formal Decision**

26. It is directed that the notice be varied by deleting requirement (iv) in paragraph 5 of the notice and replacing it with '(iv) Restore the land to its former condition before the breach took place'; and deleting the compliance periods in paragraph 6 and replacing them with 'one week for paragraph 5 (i), and 3 months for paragraphs 5 (ii) to (v), from the date this notice takes effect'.

27. Subject to these variations, the appeal is dismissed and the enforcement notice is upheld.

*M Ollerenshaw*

INSPECTOR