



Appeal Decision

Site visit made on 2 January 2026

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5th January 2026

Appeal Ref: APP/N2345/C/25/3370664

Land at 33 Manchester Road, Preston, PR1 3YH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Christopher Marsden (Land and Securities Limited) against an enforcement notice issued by Preston City Council.
 - The notice was issued on 27 June 2025.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the Land from a hard surfaced plot of land (former class B2 before demolition) to a car park (*sui generis*).
 - The requirements of the notice are to 1) cease the use of the Land as a car park, and 2) remove from the Land all pay and display parking machines, notices, signage and all other equipment related to and use in connection with the unauthorised use of the car park.
 - The period for compliance with the requirements is three months from the date on which the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(c), (d), (f) and (g) of the Town and Country Planning Act 1990 (as amended) (the Act).
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Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

Preliminary Matters

2. Notwithstanding the appellant's appeal form, it was confirmed on 1 September 2025 that the appeal was in fact proceeding on the grounds set out in section 174(2) (c), (f) and (g) of the Act.
3. After this, and as part of the appellant's statement of case, it also included an appeal made under ground (d) of section 174(2) of the Act. The Council had the opportunity to respond to the ground (d) appeal at final comments stage. However, the Council opted not to make any final comments as part of this appeal.
4. I have considered whether it is necessary for me to afford the Council a further opportunity to respond to the appellant's ground (d) appeal. This is because final comments should not ordinarily be used as a means of introducing an additional ground of appeal. As I have concluded below that the ground (d) appeal fails, coupled in any event with the fact that the Council could have responded to this matter at final comments stage, I have decided that injustice would not be caused to the Council as a result of me not affording it a further opportunity to comment on the ground (d) appeal.

Appeal on ground (c)

5. The appeal made on ground (c) is that the matters alleged do not constitute a breach of planning control. The onus is on the appellant to make a case on the legal grounds of appeal.
6. The claim made by the appellant is that the breach of planning control does not amount to a material change of use and hence does not therefore amount to an act of development within the meaning of section 55 of the Act. It is stated that *'the land has remained flat, hard surfaced, and undeveloped since demolition that predates at least 2009 as is easily identified on Google Street View and Google Earth. The presence of vehicles does not materially change the land's condition or character'*.
7. Prior to the breach of planning control occurring, it is undisputed that the land was not in use. The evidence is that the former industrial buildings on the land had been demolished sometime before 2009. Moreover, there is no evidence before me to indicate that the land has been used for an industrial purpose since this time. One could reasonably therefore conclude that the former industrial use of the land has been abandoned and hence that prior to the breach of planning control occurring the land had a 'nil' use. Indeed, the evidence, including the Google Street View images, as referenced by the appellant, is that the site has been unused for a considerable time. My appreciation of such Google Street View images is that a reasonable person would likely conclude that the previous use had been abandoned. In this regard, I find that the breach of planning control clearly constitutes a material change in the character of the activities on the site when compared to its 'nil' use.
8. Even if one were to disagree with the above and form the view that the land still had a lawful industrial use, I find, as a matter of fact and degree, that the use of the land for the parking of vehicles, and including the provision of facilitating fixtures such as signage, pay machines and yellow railings, has materially changed the character of activities on the land from its former industrial use. This is because evidence indicates that the breach of planning control has resulted in a material increase in the coming and going of vehicles and pedestrians to, from and within the site, as well as an overall physical change in the character of the appearance of the site.
9. For the above reasons, I therefore find that the breach of planning control does amount to a material change of use of the land and hence constitutes an act of development within the meaning of section 55 of the Act. There are no national permitted development rights relating to the breach of planning control. Therefore, I conclude that the matters alleged do constitute a breach of planning control. Consequently, the ground (c) appeal fails.

Appeal on ground (d)

10. The appeal made on ground (d) is that at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters. In an appeal against an enforcement notice on ground (d), the burden of proving relevant facts is on the appellant, and the relevant test of the evidence is on the balance of probability.

11. The appellant's case on ground (d) is that the site has been owned by Land and Securities Limited since 17 December 2019. It is stated that *'shortly after the acquisition, the land was laid out and opened as a car park. This occurred before the 4-year period for enforcement action became ineffective'*.
12. The ownership of land does not in itself equate to evidence of actual use. Furthermore, in respect of section 171(B) of the Act the relevant immunity period for the material change of use which is the subject of this appeal is ten years and not four years. This is indeed correctly referenced in paragraph four of the notice. Moreover, and, even if four years was relevant in this case, the appellant's claim about the commencement of the car parking use is vague. It lacks sufficient precision to demonstrate when the use commenced and the continuity of use thereafter.
13. For the above reasons, I conclude, on the balance of probability, that when the notice was issued it was not too late to take enforcement action. Therefore, the ground (d) appeal fails.

Appeal on ground (f)

14. The appeal on ground (f) is made on the basis 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, or to remedy any injury to amenity which has been caused by any such a breach.
15. The claim made by the appellant is that the cessation of the use and the removal of vehicles is *'disproportionate given the procedural irregularities surrounding the planning application and the inconsistent treatment of comparable sites'*. These are not matters that are directly relevant to an appeal made on ground (f).
16. The claimed irregularities appear to relate to the appellant allegedly not receiving a copy of a decision notice in respect of a regularising planning application for the breach of planning control (06/2024/0260) and hence a claim of being denied the right of appeal under section 78 of the Act. The onus is on the appellant in terms of the provision of precise and unambiguous evidence in terms of this matter.
17. I have been provided with a copy of an email sent from the local planning authority to 'James Hindley' (i.e., the name of the agent) and dated 11 July 2024. This email refers to planning application reference number 06/2024/0260, the relevant site address, and corresponds with the date of the refusal notice. While the email address of 'James Hindley' is not shown in full, given the other information in the email I do not find it likely that it was sent to a different 'James Hindley'. Moreover, and, in any event, it is noted that a letter was separately also sent to the owner of the appeal site on 29 July 2024 referring specifically to *'on 11th July 2024, planning application 06/2024/0260 for temporary car park for two years was refused'*.
18. In my judgement, the evidence does not therefore support the claim that the appellant/owner was denied the opportunity to make an appeal in respect of the refusal of planning application 06/2024/0260. At the very least, the evidence indicates that the owner was aware of the refusal of planning permission on 29 July 2024 and hence within the time for lodging an appeal. Furthermore, and, in any event, what is relevant in this case is that there is no ground (a) deemed

planning application. A decision was made by the Planning Inspectorate on 7 August 2025 in respect of the barring of the ground (a) appeal.

19. While I have made some comments above in respect of planning refusal notice 06/2024/0260, I nonetheless emphasise that if the appellant continues to hold contrary views about the receipt of the decision notice for planning application 06/2024/0260 then such a matter should be further discussed with the Council and, if necessary and justified, consideration given to pursuing a separate legal remedy.
20. As regards the alleged inconsistent treatment of comparable sites, this is essentially a matter that is relevant to a ground (a) appeal and a deemed planning application. However, and as detailed above, the appellant is barred from making a ground (a) appeal. This is because there is no doubt that a planning application for the matters alleged in the notice was refused on 11 July 2024, and the requirements of section 174(2A) of the Act were met.
21. The purpose of the notice is to remedy the breach of planning control by ceasing the use of the land as a car park and the removal of facilitating machines, notices, signage and all other equipment. These are not excessive steps in so far that they remedy the breach of planning control. Therefore, I conclude that the ground (f) appeal fails.

Appeal on ground (g)

22. The appeal on ground (g) is made on the basis that the period specified in the notice in accordance with section 173(9) of the Act falls short of what should reasonably be allowed.
23. The appellant claims that six months is needed to comply with the requirements of the notice instead of three months. It is stated that six months should be allowed so that the appellant can submit another planning application for a car park on the land in the context that the appellant was allegedly denied the opportunity to appeal the refusal of planning application 06/2024/0260.
24. As outlined previously, the appellant has not reasonably substantiated the claim made that the Council did not send a copy of its refusal notice or that the owner was denied the opportunity to make an appeal under section 78 of the Act. In any event, this is not a matter that is directly relevant to the consideration of the ground (g) appeal.
25. Of relevance is whether a period of three months is reasonable to enable the unauthorised use to cease and the facilitating machines, notices, signage and all other equipment to be removed. In this regard, the appellant does not provide any reasonable or credible evidence to substantiate a claim that six months as distinct from three months is reasonably required. I accept that ceasing the use of the land as a car park would mean that customers would no longer be able to park on the land. However, the evidence does not reasonably support any claim that such customers would not be able to find alternative car parking elsewhere within a period of three months.
26. For the above reasons, I conclude that the ground (g) appeal fails.

Conclusion

27. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

D Hartley

INSPECTOR