



## Appeal Decision

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 13<sup>th</sup> January 2026

**Appeal Ref: APP/J4423/C/25/3364287**

**Land at the Former Bernard Works, Sylvester Gardens, Sheffield, S1 4RN**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Elmsdale Estates Ltd against an enforcement notice issued by Sheffield City Council.
- The notice was issued on 18 March 2025.
- The breach of planning control as alleged in the notice is 'Without planning permission, the material change of use of the Land from vacant previously developed land to the use as a car park as shown on the attached photographs.'
- The requirements of the notice are
  - i. Cease the use of the Land for the purpose of car parking; and
  - ii. Clear from the Land all signage, barriers and associated plant and machinery for the use of the site as a car park
- The period for compliance with the requirements is 1 month.
- The appeal is proceeding on the ground set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 (the Act) (as amended).

### Decision

1. It is directed that the enforcement notice is varied by:
  - (i) the deletion of '*1 month*' as the period for compliance in the notice and its substitution with '*2 months*.'
2. Subject to the variation, the appeal is dismissed and the enforcement notice is upheld.

### Preliminary Matters

3. Retrospective planning permission was refused for 'continuous use of existing pay and display car park for a temporary period of three years on 17 October 2024' (the planning refusal). The enforcement notice relating to the car park use at the appeal site was issued on 18 March 2025.
4. The appeal was originally made under grounds (a) (f) and (g). A ground (a) appeal is that planning permission should be granted for the matters stated in the notice. However, the effect of Section 118 of the Levelling Up and Regeneration Act 2023 is to bar an appeal under ground (a) where an enforcement notice was served within two years of the date on which a related application ceased to be under consideration.
5. The appellant was therefore informed on 13 May 2025 that the ground (a) appeal was barred due to the Levelling Up and Regeneration Act 2023 provisions as the planning refusal was determined within the relevant 2 year period prior to the serving of the enforcement notice. In the absence of a ground (a) appeal, I am unable to consider the planning merits of the development, the character of the area or any policy considerations as part of this appeal.

6. As the appeal is proceeding on the limited grounds of (f) and (g), the parties were invited to provide reasons if they considered that a site visit was necessary. Whilst the appellant did respond, the reasons provided related to assessing the character of the area which relates to planning merits which fall outside grounds (f) and (g). I am therefore, satisfied that I am able to proceed to determine the appeal based upon the evidence before me without a site visit.

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

7. Section 174(2)(f) of the Act states that an appeal may be made on the ground that the steps required by the notice to be taken, 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. A ground (f) appeal relates only to whether the requirements are excessive having regard to the purpose of the notice and does not relate to the reasons for serving the notice.
8. As the requirements relate to cessation of the car park use and removal of associated signage, equipment and plant, the purpose of the notice is to remedy the breach of planning control. The appellant considers that the requirements are excessive when planning permission could have been granted. However, assessing whether temporary or permanent planning permission is appropriate is not within the remit of this appeal.
9. Reference is also made to the steps being excessive in relation to the 'reported harm.' However, in the absence of a ground (a) appeal, there is a finding that the harm alleged has occurred. A ground (f) appeal does not extend to carrying out a planning balance exercise with regard to the level of that harm.
10. No arguments have been advanced by the appellant as to why the requirements are excessive having regard to the purpose of the notice which is to remedy the breach. The ground (f) appeal must therefore fail.

#### **The appeal under ground (g)**

11. An appeal under ground (g) is that the period specified in the notice falls short of what should reasonably be allowed. In considering what is reasonable, it is necessary to balance the public interest in securing compliance and the interests of the appellant. The period for compliance with the requirements is 1 month. The car park site is operated by way of a smartphone app with signs and panels on wooden posts with parking information and penalties. Signs can be easily removed and the app updated to inform car park users of the date of closure of the car park.
12. In the absence of a ground (a) appeal, the development causes the harm alleged in the notice. It is therefore in the public interest to secure compliance. The appellant has referred under ground (g) itself to a compliance period of one year and three years as part of ground (f).
13. The appellant describes the unauthorised use as a 'meanwhile' use to ensure an income can be generated ahead of the site's permanent redevelopment. I note that discussions are ongoing with the Council about long term plans for the appeal site. However, requesting the unauthorised use to continue to fund possible future use is not justification for extending the compliance period beyond what is required to comply with the notice.

14. Nevertheless, whilst compliance is relatively straightforward, a slightly longer period of 2 months would allow the appellant to give more notice to regular car park users who can make alternative arrangements. The appellant can then arrange to remove any car parking equipment such as signs and posts from the appeal site. I will therefore vary the compliance period to 2 months. The appeal under ground (g) succeeds to that limited extent.

**Conclusion**

15. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation.

*E Griffin*

INSPECTOR