



## SHEFFIELD CITY COUNCIL Planning & Highways Committee

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**Report of:** The Head of Planning

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**Date:** 5 March 2024

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**Subject:** RECORD OF PLANNING APPEALS  
SUBMISSIONS & DECISIONS

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**Author of Report:** Abby Hartley

**Summary:**

List of all newly submitted planning appeals and decisions received, together with a brief summary of the Inspector's reason for the decision

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**Reasons for Recommendations**

**Recommendations:**

To Note

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**Background Papers:**

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**Category of Report:** OPEN

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## 1.0 RECORD OF PLANNING APPEALS SUBMISSIONS AND DECISIONS

This report provides a schedule of all newly submitted planning appeals and decisions received, together with a brief summary of the Secretary of State's reasons for the decisions.

## 2.0 NEW APPEALS RECEIVED

<p>(i) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for the alterations to roof to include replacement dormer windows to front of dwellinghouse (resubmission of planning permission 23/01550/FUL) at 264 Darnall Road, Sheffield, S9 5AN (Case No: 23/03364/FUL).</p>
<p>(ii) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for the alterations and extension to roof including raising of ridge height, hip to gable extension, and erection of rear dormer extension to dwellinghouse at 4 Roxton Road, Sheffield, S8 0BD (Case No: 23/02747/FUL).</p>
<p>(iii) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for the removal of 1x 48 sheet advert and upgrade of 1x existing 48 sheet advert to support digital poster at land at 113 Gower Street, Sheffield, S4 7JW (Case No: 23/02632/ADV).</p>
<p>(iv) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for the alterations to roof to form additional habitable space including raising of ridge height and addition of 4 no. rooflights at 4 Oldfield Close, Sheffield, S6 6EN (Case No: 23/02510/FUL).</p>
<p>(v) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for the demolition of existing garage and erection of 2 x dwellinghouses with associated landscaping works at 90 Broomspring Lane, Sheffield, S10 2FB (Case No: 23/02242/FUL).</p>
<p>(vi) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for the increased ridge height to create habitable room in roofspace and installation of electric sliding gates to front drive at 64 Sandygate Park, Sheffield, S10</p>

5TZ (Case No: 23/01308/FUL).

(vii) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for the erection of 3x dwellinghouses with associated works including access and landscaping at land to rear of 51-55 Knowle Lane, Sheffield, S11 9SL (Case No: 23/01201/FUL).

(viii) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse a prior notification application for the Erection of 15m street pole with associated cabinets (Application for determination if approval required for siting and appearance) (Resubmission of 22/03774/TEL) at land at junction with Park Lane and Broomhall Road, Sheffield, S10 2DU (Case No: 23/00459/TEL).

(ix) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for the demolition of dwellinghouse, erection of four detached dwellinghouses including garages and one detached garage, associated landscaping and access improvements at 45a Brooklands Avenue, Sheffield, S10 4GB (Case No: 23/00198/FUL).

(x) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for the erection of dwellinghouse, and associated landscaping curtilage of 57 Snaithing Lane, Sheffield, S10 3LF (Case No: 22/02392/FUL).

(xi) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for the demolition of detached garage, erection of dwellinghouse with associated parking at curtilage of 21 Brincliffe Crescent, Sheffield, S11 9AW (Case No: 22/02535/FUL).

### 3.0 APPEALS DECISIONS – DISMISSED

(i) To report that an appeal against the delegated decision of the Council to refuse a prior notification application for the installation of H3G 15m street pole and additional equipment cabinets (Application to determine if prior approval required for siting and appearance) at Top Road, Sheffield, S35 0AQ (Case No: 22/04179/TEL) has been dismissed.

Officer Comment:-

The main issues identified by the Inspector were the effect of the siting and appearance of the equipment on the character and appearance of the area, and if harmful whether this was outweighed by need, and lack of suitable alternative sites.

The Inspector agreed with officers that the excessive height and bulk of the

mast and necessary equipment would result in significant harm to the character and appearance of the area.

They accepted the need for the facility but agreed with officers that there was insufficient evidence that less harmful alternative sites were not available.

Overall, the Inspector concluded that the benefits of the proposal would not outweigh the harm that would be caused to the character and appearance of the area.

(ii) To report that an appeal against the delegated decision of the Council to refuse planning permission for the erection of a single-storey rear extension to roof terrace area at Flat 7, 3 Kenwood Road, Sheffield, S7 1NP (Case No: 22/03997/FUL) has been dismissed.

Officer Comment:-

The main issue in this case was the effect of the extension on the character and appearance of the Nether Edge Conservation Area (NECA).

The Inspector agreed with officers that the high-level extension would be prominent and incongruous, causing an unacceptable adverse effect on the character and appearance of the NECA.

(iii) To report that an appeal against the delegated decision of the Council to refuse a prior notification for the erection of 20m street pole with associated cabinets (Application for determination if approval required for siting and appearance) at Streetworks, Causeway Head Road, adjacent to junction with Parkers Lane, Dore, Sheffield, S17 3DP (Case No: 22/03772/TEL) has been dismissed.

Officer Comment:-

The main issues identified by the Inspector were the effect of the siting and appearance of the equipment on the character and appearance of the area, and if harmful whether this was outweighed by need, and lack of suitable alternative sites.

The Inspector agreed with officers that the excessive height and bulk of the mast and necessary equipment would result in significant harm to the character and appearance of the area.

They accepted the need for the facility but agreed with officers that there was insufficient evidence that less harmful alternative sites were not available.

(iv) To report that an appeal against the delegated decision of the Council to refuse a prior notification for the erection of 20m streetpole with associated cabinets and ancillary works (Application to determine if approval required for siting and appearance) at junction with Machon Bank Road and Moncrieffe Road, Sheffield, S7 1PE (Case No: 22/03717/TEL) has been dismissed.

Officer Comment:-

The main issues identified by the Inspector were the effect of the siting and appearance of the equipment on the character and appearance of the area, including the Nether Edge Conservation Area (NECA) and if harmful whether this was outweighed by need, and lack of suitable alternative sites.

The Inspector agreed with officers that the excessive height and bulk of the mast and necessary equipment would result in significant harm to the character and appearance of the area and would contrast with the traditional appearance of surrounding buildings harming the significance of the NECA failing to preserve or enhance its character and appearance.

They accepted the need for the facility but agreed with officers that there was insufficient evidence that less harmful alternative sites were not available. The public benefits were not therefore considered to outweigh the harm to the heritage asset.

(v) To report that an appeal against the delegated decision of the Council to refuse a prior notification for the erection of telecommunications base station comprising of 17.5m high column, 3no. antennas, associated GPS module, 1no. equipment cabinet, 1no. meter cabinet and ancillary works (Application to determine if approval required for siting and appearance) at electricity substation at rear of Holmwood Nursing Home 50m along track, Warminster Road, Sheffield, S8 9BN (Case No: 22/03232/TEL) has been dismissed.

Officer Comment:-

The main issue identified by the Inspector was the effect of the siting and appearance of the equipment on the character and appearance of the area.

The Inspector agreed with officers that the form of the mast and necessary equipment would be harmful in the residential context and would represent a dominant and unattractive feature.

He acknowledged the benefits of the proposal but felt these were outweighed by the harm.

(vi) To report that an appeal against the delegated decision of the Council to grant planning permission for the erection of buildings comprising 4 business/industrial units (Use Classes E (g (iii)/B2) with associated car parking and impose condition number(s) 4, 13 and 22 relating to drainage, and condition 18 restricting the use of the approved units at G Morley Ltd, Worthing Road, Sheffield, S9 3JA (Case No: 22/02875/FUL) has been dismissed.

Officer Comment:-

The appellant sought to delete 4 conditions imposed on that planning

permission, the effect of which would be to remove the requirements that:

- full details of a surface water drainage scheme are approved by the Council (condition 4);
- all surface water drainage discharged from parking areas and hard standings into any watercourse, surface water sewer or soakaway system is passed through a petrol/oil interceptor (condition 13);
- the maximum flow rate of surface water discharged from the completed development is restricted to 10 litres per second (condition 22); and
- the use of the approved units is confined to Class B2 (general industry) and Class E, g, iii (light industry) and for no other purpose within Class E (condition 18).

Against that background, the main issue was whether the conditions in dispute were reasonable and necessary having particular regard to the policies of the development plan, the Framework, and the Planning Practice Guidance (PPG).

#### Surface water drainage details (condition 4)

The Inspector determined that few precise details of the existing and proposed drainage arrangements were before them and that the discharge of surface water to a combined sewer is the last of 4 solutions in the hierarchy of drainage options set out in the PPG. In those circumstances, it seemed reasonable to expect technical evidence in the form of a survey and a drainage strategy to confirm beyond doubt that the site connects to an existing combined sewer and to ensure that other SUDS options have been assessed in accordance with the surface water drainage hierarchy.

Without condition 4, as proposed, there is no certainty that the details of the surface water drainage scheme to serve the development would be acceptable or that the SuDS options have been adequately investigated. On that basis, the proposal conflicted with CS Policy CS67 and the PPG.

#### Petrol and oil interceptor (condition 13)

Under condition 13, a petrol and oil interceptor is required only if the parking and hard surface areas of the development drain to a watercourse, surface water sewer or soakaway system. The main purpose of such a device is to capture and remove hydrocarbons from surface water runoff before they enter the drainage system. By ensuring cleaner water discharge, the device would prevent pollutants potentially reaching water bodies elsewhere.

Given the historic and approved use of the site for industrial purposes, the potential for pollutants on site such oil and petrol cannot be ruled out. In the absence of firm technical evidence to demonstrate that a device to intercept hydrocarbons is not required due to the method of surface water disposal or inappropriate, condition 13 is reasonable and necessary because it would

prevent pollution of the water environment.

#### Flow of surface water (condition 22)

Condition 22 places a limit on the maximum flow of surface water from the site to mitigate the risk of flooding. By deleting this condition, as sought, there would be no upper limit to the flow of surface water from the site. Such an approach would be counter to CS Policy CS67, which requires that all developments significantly limit surface water run-off to reduce the extent and impact of flooding.

In this case, much of the site is or would be covered by buildings and hard surfaces and so the flow of surface water during heavy rainfall could be significant. If a maximum threshold for the flow of surface water were not imposed, the development could add to the risk of flooding in conflict with CS Policy CS67.

#### Use of the approved units (condition 18)

Condition 18 restricts the use of the new units to general industry (Class B2) and light industry (Class E g iii), such that planning permission would be required for any change to another use within Class E of the Use Classes Order (UCO). The appellant considered that condition to be too restrictive because it hinders the opportunity to accommodate and support small businesses in other sectors such as retail wholesalers, gymnasiums, cookery schools, cafes, microbreweries, and woodworking.

However in the absence of condition 18, any of the approved units could, without planning permission, change to a wide range of commercial, business and service uses within Class E through the exercise of permitted development (PD) rights. These other uses would include shops, financial and professional services, restaurants and cafes and offices and other business uses. Gymnasiums, nurseries, and health centres would also fall within Class E.

Most of these services and facilities would be regarded as main town centre uses, as defined in the Glossary of the Framework. Given the industrial character of the site and the immediate area, and its location outside of a recognised town centre, not all Class E uses would necessarily be appropriate or compatible in its context. Furthermore, it is not possible to conclude from the limited evidence provided that a Class E use on the site such as a retail shop would comply with the policies of the Framework insofar as they aim to ensure the vitality of town centres.

The effect of condition 18 is that planning permission would be required for any purpose outside of Class B2 and E g (iii) including those to which the appellant has referred. This arrangement allows such a proposal to be assessed on its own merits in the light of the circumstances prevailing at that time.

The Framework makes clear that planning conditions should not be used to restrict national PD rights unless there is clear justification to do so. The PPG also advises that conditions restricting the future exercise of PD rights and conditions restricting future changes of use may not pass the test of reasonableness or necessity. Nevertheless, the Inspector found that condition 18 was justified, necessary and reasonable for the reasons set out above.

#### Other Matters

The PPG states that conditions which place unjustifiable and disproportionate financial burdens on an applicant will fail the test of reasonableness. In this case, CS Policy CS67 allows the issue of financial feasibility to be among the considerations in assessing the most appropriate method of surface water disposal under condition 4. There would be some additional cost associated with promoting a fresh planning application for the non-industrial use of any of the approved units. However, the Inspector was not persuaded on the submitted evidence that the expense would be so great as to unreasonably impact on the deliverability of the development.

#### Conclusion

For reasons set out above, the Inspector found that conditions 4, 13, 18 and 22, taken individually, are reasonable, necessary and that they meet the relevant tests set out in the Framework and the PPG. To delete these conditions, as proposed, would conflict with the development plan, when read as a whole. There were no material considerations, including the policies of the Framework and the advice within the PPG, which indicate that the decision should be taken other than in accordance with the development plan.

For this combination of reasons the appeal was dismissed.

#### 4.0 APPEALS DECISIONS – ALLOWED

(i) To report that an appeal against the delegated decision of the Council to refuse planning permission for the construction of vehicular access and provision of off-street parking to dwellinghouse at 528 Fulwood Road, Sheffield, S10 3QD (Case No: 23/01242/FUL) has been allowed.

#### Officer Comment:-

The appeal case proceeded concurrently with the appeal made in respect of a similar development proposal at the adjoining property No. 526 Fulwood Road (ref 23/01003/FUL).

The main issues for both were the likely effect of the proposed off-street car parking facilities on the appearance and character of this part of the house frontages on Fulwood Road.



The Inspector was not persuaded that the Council's objections should prevail taking the view that the attractiveness of frontages to the terrace has depended upon individual occupiers' treatment, rather than particular merits of the original layout.

Implementation of permitted car parking areas has not caused significant harm to the street scene in the Inspectors view. He also considered that the Nos. 524 and 522 planning permissions weakened the precedent objection.

The Inspector observed that the proposed off-street parking areas were limited. The resulting need to reverse a car in or out of the proposed parking is not ideal. On balance however, he considered it preferable to parking on the road.

Overall, therefore he determined that the lack of material harm to the street scene results in no significant conflict with national or relevant local policy guidance drawn up to protect against unsightly development and allowed both appeals.

(ii) To report that an appeal against the delegated decision of the Council to refuse planning permission for the construction of vehicular access and provision of off-street parking to dwellinghouse at 526 Fulwood Road, Sheffield, S10 3QD (Case No: 23/01003/FUL) has been allowed.

Officer Comment:-

The comments are the same as the previous case (ref 23/01242/FUL) as both appeal cases proceeded concurrently and as it was a joint decision.

(iii) To report that an appeal against the delegated decision of the Council to refuse planning permission for the alterations to roof of dwellinghouse including raised ridge height, hip to gable extension, dormer window to rear and rooflights to front at 14 Sherwood Glen, Sheffield, S7 2RB (Case No: 23/00836/FUL) has been allowed.

Officer Comment:-

The main issue was the effect of the roof alterations on the character and appearance of Sherwood Glen, a street of detached houses of very similar and quite uniform appearance, mostly containing hipped roofs.

The Inspector acknowledged officer's concern about the impact of incorporating a gable roof and raising the roof ridge on this character and appearance but noted that negotiations had reduced this impact, and that gable roofs were not entirely alien to the street scene. They also noted the overall roof height would bridge but not exceed either of the immediate neighbours following the negotiated amendments.

They concluded overall that the changes were in scale and character with neighbouring buildings and would not detract from the appearance of the

property or street.

(iv) To report that an appeal against the Council's failure to give notice of a decision on an application to reduce main tower block from 38 to 35 storeys, re-configuration of window sizes/positions, facade materials of main tower changed from metal cladding to brickwork and accommodation mix revised to 1067no. studios, 10.no 2 beds, 33no. 5 beds, and 10no. 6 beds (Application under Section 73 to vary condition no(s) 2 (approved plans) as imposed by planning permission 21/05354/FUL - Application for alterations to elevations and layout (Application under Section 73 to vary condition 2. (approved plans) and remove condition 21. (Dutch Ramp)), imposed by application 20/04572/FUL - Application to revise the housing mix and change of window material (in places) to UPVC (Application under Section 73 to vary condition 2. (approved plans), 12. (energy needs) & 34. (UPVC windows) (Amended Plans) imposed by planning permission 19/03779/FUL - Demolition of existing buildings and erection of mixed use building up to 12/17/38 storeys to form residential units with ancillary amenities including gymnasium, cinema, common rooms and raised external deck, associated cycle and bin storage and ground floor retail unit (Use Class A1) (Development Accompanied by an Environmental Statement as amended 19th December 2019))) at land bounded by Rockingham Street, Wellington Street and Trafalgar Street, Sheffield, S1 4ED (Case No: 23/00697/FUL) has been allowed.

Officer Comment:-

The inspector confirmed that the only dispute was whether the S73 process can be used in this case, where the proposal seeks to amend condition 2 (approved drawings) to allow the height of the tower to be reduced from 38 to 35 storeys.

The appellant argued that the proposed reduction in height would not alter the operative part of the permission as the description of development refers to development of **up to** 12/17/38 storeys.

The LPA argued that given the application is a full planning permission the approved plans are fundamental to the consideration of what is permitted and that a proposal of a lower height would not accord with the description of development.

The Inspector refers to the Armstrong judgement which rejected the proposition that a S73 could only be made for a minor material amendment. They also refer to the Finey case where it was confirmed that a S73 is directed at conditions and does not permit variation of the 'operative part' of a planning permission and the PPG which states a S73 cannot be used to change the description of development.

The Inspector concluded that the proposed development would still accord with the description of development owing to the use of 'up to' in relation to the height. They state that the proposal would not be fundamentally altered from the original proposal, it would still be a mixed use scheme comprising

residential units in three blocks, albeit one block would be less high. There would be no additional policy considerations or concerns. As such the Inspector concluded that the appeal be allowed.

(v) To report that an appeal against the Council's failure to give notice of a decision on an application to reduce main tower block from 38 to 32 storeys, re-configuration of window sizes/positions, facade materials of main tower changed from metal cladding to brickwork and accommodation mix revised to 1010no. studios, 10.no 2 beds, 30no. 5 beds, and 10no. 6 beds (Application under Section 73 to vary condition no(s) 2 (approved plans) as imposed by planning permission 21/05354/FUL - Application for alterations to elevations and layout (Application under Section 73 to vary condition 2. (approved plans) and remove condition 21. (Dutch Ramp)), imposed by application 20/04572/FUL - Application to revise the housing mix and change of window material (in places) to UPVC (Application under Section 73 to vary condition 2. (approved plans), 12. (energy needs) & 34. (UPVC windows) (Amended Plans) imposed by planning permission 19/03779/FUL - Demolition of existing buildings and erection of mixed use building up to 12/17/38 storeys to form residential units with ancillary amenities including gymnasium, cinema, common rooms and raised external deck, associated cycle and bin storage and ground floor retail unit (Use Class A1) (Development Accompanied by an Environmental Statement as amended 19th December 2019))) at land bounded by Rockingham Street, Wellington Street and Trafalgar Street, Sheffield, S1 4ED (Case No: 23/00696/FUL) has been allowed.

Officer Comment:-

The inspector confirmed that the only dispute was whether the S73 process can be used in this case, where the proposal seeks to amend condition 2 (approved drawings) to allow the height of the tower to be reduced from 38 to 32 storeys.

The appellant argued that the proposed reduction in height would not alter the operative part of the permission as the description of development refers to development of **up to** 12/17/38 storeys.

The LPA argued that given the application is a full planning permission the approved plans are fundamental to the consideration of what is permitted and that a proposal of a lower height would not accord with the description of development.

The Inspector refers to the Armstrong judgement which rejected the proposition that a S73 could only be made for a minor material amendment. They also refer to the Finey case where it was confirmed that a S73 is directed at conditions and does not permit variation of the 'operative part' of a planning permission and the PPG which states a S73 cannot be used to change the description of development.

The Inspector concluded that the proposed development would still accord with the description of development owing to the use of 'up to' in relation to

the height. They state that the proposal would not be fundamentally altered from the original proposal, it would still be a mixed use scheme comprising residential units in three blocks, albeit one block would be less high. There would be no additional policy considerations or concerns. As such the Inspector concluded that the appeal be allowed.

(vi) To report that an appeal against the delegated decision of the Council to refuse planning permission for the siting of 4x shipping container buildings for use as a takeaway food/ drink shop with car parking provision (retrospective application) at Chai & Co, 16 Owler Lane, Sheffield, S4 8GA (Case No: 22/03703/FUL) has been allowed.

Officer Comment:-

The case is linked with associated Enforcement appeal ref APP/J4423/C/23/3323990 which was also dismissed.

The Inspector considered that the main issue in both appeals was the impact of the development on the character and appearance of Owler Lane.

The Inspector acknowledged that the introduction of the development subject to both of the two appeals is clearly a contrast to the established pattern of development. However, the site appears for many years to have been vacant waste land and to have last been used for the storage of shipping containers and cars. In that context, the more formal and orderly siting of the containers in the present scheme would appear to represent an innovative scheme which is a visual improvement on the previous use. In the Inspector's view the setting back from the frontage and the painting black of the containers considerably reduces their visual impact on the street scene.

Indeed, the recessive nature of the development tends to enhance the aesthetic character of the terraced blocks on either side.

The Inspector noted that the re-purposing of the containers appears to be a sustainable form of development, which appears to have been used on suitable sites elsewhere in the City. In the particular context of this site, the Inspector considered the development to be an innovative solution to making viable use of land whose former condition must have detracted from the appearance of, and undermined the vitality of, this shopping centre. This appears to be consistent with the encouragement of innovation in the National Planning Policy Guidance.

Overall, therefore the Inspector concluded that the limited harm to the character and appearance of Owler Lane would be outweighed by the benefits of the scheme. As such, the Inspector considered that there was no undue conflict with the aims of the development plan and allowed both appeals granting planning permission for the development and quashing the enforcement notice.

(vii) To report that an appeal against the Committee decision of the Council to

refuse outline planning permission for the erection of up to 92 dwellinghouses and associated vehicular and pedestrian access (all matters reserved except access) at land between Hollin Busk Road, Broomfield Grove and Broomfield Lane, Sheffield, S36 2AQ (Case No: 22/02303/OUT) has been allowed.

Officer Comment:-

The Inspector concluded that owing to the size of the site and number of dwellings proposed, that the development would significantly increase the level of built form in this location. They considered that the proposal would erode the rural, open, verdant countryside character and appearance of the site. However, the development would be seen within the context of the adjacent built up area of Stocksbridge and would not be out of character with the land use in the surrounding area. They concluded the harm would be limited and localised but would be contrary to local and national policies.

The Inspector also considered the fallback permission whereby an application has been approved for a lesser number of dwellings (75) on the site and gave significant weight to this. They concluded that there was no robust reasoning why the western part of the site was more important than the other parts of the site where development has been consented. They considered the difference between the appeal proposal and the fallback position to be limited in nature and localised.

The Inspector attached significant weight to the benefit of providing additional housing in the absence of a 5 year housing land supply. Moderate weight was also attached to the economic, social and environmental benefits of the scheme. On balance, the Inspector concluded that the adverse impacts of the proposal did not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

## 5.0 CIL APPEALS DECISIONS

Nothing to report.

## 6.0 NEW ENFORCEMENT APPEALS

(i) An appeal has been submitted to the Secretary of State against the Enforcement Notice served in respect of the breach of planning control as alleged in the Notice which is the unauthorised material change of use of undeveloped land to Class B8 purposes (storage or distribution including open air storage) at land to the rear of Mirage, 284a Handsworth Road, Sheffield, S13 9BX (Inspectorate Ref: APP/J4423/C/23/3329169).

## 7.0 ENFORCEMENT APPEALS DISMISSED

(i) To report that an appeal against the Enforcement Notice issued by the

Council for the unauthorised execution of operational development consisting of: to the front of the Land: the erection of a wooden pergola, fencing, two storage containers clad with timber including over hanging canopies (operating as "chaska grill" and "chaska chai"), the provision of decking enclosed by timber balustrading, the erection of timber frames supporting festoon lighting, and the provision of an extraction flue; and to the rear of the Land, a marquee has been erected at 261 Staniforth Road, Sheffield, S9 3FP (Inspectorate Ref: APP/J4423/C/23/3321591) has been dismissed with corrections to the Notice.

Officer Comment:-

The appellant appealed against the service of the notice on grounds (d) that at the time the notice was issued it was too late for enforcement action to be taken and (f) that the requirements of the notice exceed what is necessary to remedy the breach of control alleged. The Inspector removed reference to the marquee from the Notice. A previous Notice had been served against the provision of a marquee in this location in 2015, and therefore that notice is still extant and can be enforced against.

The appeal was then considered in respect of the remaining unauthorised development.

Ground D Appeal Failed. In order to succeed it had to be shown that the remaining development was substantially completed more than 4 years before the date on which the notice was issued. The relevant date therefore was the 11 April 2019. The appellant did not dispute that the remaining development was sited at the appeal land. Moreover, the appellant's evidence set out that the owner paid and installed the units around the coronavirus outbreak and pandemic, thus there is no evidence provided to support their ground (d) appeal or certainty of dates that they were substantially completed more than 4 years before the date the notice was issued.

Ground F Appeal Failed (The steps required to be taken by the notice exceed what is necessary to achieve its purpose). The purposes of an enforcement notice are set out in section 173 of the Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)).

The Inspector stated that requiring the unauthorised developments to be removed would do no more than to remedy the breach that has occurred. Consequently, it cannot be an excessive requirement. The appellant had not produced any substantive evidence to support their ground (f) appeal and that the notice's requirements exceed what is necessary to remedy the breach, or identified any alternative or lesser steps that would do so. Instead, the appellant's case was that they acted in desperation to stave off closure and redundancy and the action is dis-proportional to the development.

Regarding the structures being temporary, the Inspector stated that there was nothing before them to support this or suggest that the unauthorised

development would fall to be permitted development. Moreover, there was no ground (a) appeal for them to consider the planning merits of the case.

(ii) To report that an appeal against the Enforcement Notice issued by the Council for the unauthorised execution of operational development consisting of the erection of two front dormer extensions, the provision of a vehicular gate and the increase in height of the wall between the front amenity area and the driveway at 264 Darnall Road, Sheffield, S9 5AN (Inspectorate Ref: APP/J4423/C/23/3325258) has been dismissed.

Officer Comment:-

The appellant appealed against the service of the notice on grounds F (the steps required to be taken by the notice exceed what is necessary to achieve its purpose) and G (that the time given to comply with the notice is too short).

Appeal under Ground F (Failed). The Inspector noted that the appellant's case on ground (f) appears to relate solely to the two front dormers. It is clear from the requirements of the notice that the purpose of the notice is to remedy the breach of planning control, as per s173(4)(a) of the Act. Accordingly, the requirement to remove the two dormers and to reinstate the front roof slope to its condition prior to the taking place of the development does not exceed what is needed to remedy the breach of planning control. In his representations, the appellant included drawings of front dormers of a reduced scale, which they submitted should be acceptable in the local context. (These were subsequently refused in a separate application to the planning department). The appellant chose not to pursue his original ground (a) appeal, and, in the absence of this ground, the courts have held that the planning merits may not be considered by way of ground (f) alone. Therefore, the appeal under Ground F failed.

The appeal under Ground G (Failed) – The Inspector stated that the stipulated period of 6 months appears to be ample time for the carrying out of the requirements of the notice. The appellant did not provide any evidence that such a period is unreasonably short. The Inspector concluded that the appeal on ground (g) fails.

## 8.0 ENFORCMENT APPEALS ALLOWED

(i) To report that an appeal against the Enforcement Notice issued by the Council for the unauthorised execution of operational development consisting of the siting of 4 container buildings, decking and seating area, and the change of use of the land to use for the purpose of takeaway hot food and drink use at 14-16 Owler Lane, Sheffield, S4 8GA (Inspectorate Ref: APP/J4423/C/23/3323990) has been allowed.

Officer Comment:- See Officer comments under item 4 (vii)

## 9.0 RECOMMENDATIONS

That the report be noted.

*Michael Johnson*  
Head of Planning

*5 March 2024*