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**Rushcliffe Borough Council**

**Town and Country Planning Act 1990, Section 174 Appeal**

**STATEMENT OF CASE**

**PUBLIC INQUIRY**

**PINS Appeal ref:** APP/P3040/C/25/3376255

**LPA ref:** 25/00888/FUL

**Location:** Redhill Marina, Ratcliffe on Soar, NG11 0EB

**Appellant:** REDHILL MARINE LTD

**Description:** The hard surfacing and use of part of the land as a car park, the physical surfacing works having been undertaken sometime between the beginning of February 2022 and the end of April 2022. The work having been undertaken outside of permitted development rights and without the benefit of planning permission. An attempt to obtain planning permission retrospectively has resulted in planning permission being refused.

**Date:** 13 January 2026

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### Introduction and background

The Council has been investigating two unauthorised car parks created at Red Hill Marina ('the site') since late 2023, alongside a number of other breaches of planning control, some of which have been resolved and some of which are the subject of ongoing investigations with potential for further enforcement action. The subject of this appeal relates to land referred to in an Enforcement Notice dated 28 October 2025 referred to as the 'North-East Car Park' (hereby referred to as 'the land'), which is land that has been unlawfully developed to create a car park. This was developed without planning permission. When an application was eventually submitted it was refused planning permission on multiple grounds, including green belt conflicts, flood risk concerns not adequately addressed and adverse impact upon archaeology likely to exist on the site. The land is the area shaded red in the accompanying map.

There is a second area at 'the site' which is used as an unauthorised car park, and not the subject of this appeal, and is referred to as South-West Car Park. This area is subject to a separate notice which is extant and has not been challenged.

The Council believes these two unauthorised car parks have been created to replace an area previously utilised by the Appellant as a car park (for which he received retrospective planning permission in 2012 – see reference 12/00300/FUL), but which is now being used for the storage and the repair of boats, and is partly occupied by an unauthorised dwelling. The Council's position is therefore, that not only is the use of 'the land' as a car park unlawful, as is without planning permission and the subject of an Enforcement Notice, but it is also unnecessary as there already exists an authorised car park available on the site.

Prior to the service of this Enforcement Notice, repeated attempts were made to encourage the Appellant to seek retrospective planning permission. This commenced at, and following, a joint enforcement site visit to Red Hill arranged between the appellant and the Planning and Environmental Health teams at the LPA to investigate a number of issues identified by those two departments, with the first site visit being undertaken on 20 February 2024. An application was eventually submitted and validated in May 2025. Planning permission was refused in November of 2025 (25/00888/FUL).

The Appellant has made their appeal on a single ground, (d), and claims 'the land' was both in use as a car park and hard surfaced for that purpose, a minimum of 20 years ago. The Appellant suggests that the land has been used for various periods of time as a car park.

The Council dispute this and the Appellant has been made aware of the publicly available evidence which demonstrates this cannot be the case. This includes aerial photography. The Council have been clear that in light of this evidence the Council

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would need some evidence to support the Appellant's claim of the historical existence of a car park on 'the land', beyond mere assertion made by him.

The Council has sought an answer as to when the land in question began to be used as a car park via a Planning Contravention Notice ('PCN'), however the Appellant failed to respond to the majority of the PCN questions, including questions around when the car park use began. If the Appellant did respond to questions, a response was either inaccurate or contained incomplete responses. No contact details were provided for any of the claimed parties with an interest in the land, despite this being a requirement of the PCN.

Multiple and repeated reminders and requests were sent asking the Appellant to provide a complete and accurate response to the PCN. Despite multiple reminders over a substantial time period [from initial service of the PCN in November 2024, a letter inclosing a further copy of the PCN in December 2024 highlighting all of the questions which had not been addressed as of that time, and further requests for a full and accurate response to the PCN on 7<sup>th</sup> January, 11<sup>th</sup> February and 14<sup>th</sup> March 2025], no further response was ever forthcoming.

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The Appellant eventually made a retrospective planning application for the continuing use of 'the land' as a hard surfaced car park, but only after around eight months of saying he would do so, a process that was also littered with delay. When an application was eventually submitted in early 2025 (25/00888/FUL) this was subsequently refused planning permission on multiple grounds, including green belt conflicts, flood risk concerns not adequately addressed within the submitted flood risk assessment and adverse impact upon archaeology likely to exist on the site.

The Enforcement Notice refers to the same land as that recently refused retrospective planning permission, with the refusal of planning permission being cited in both the description of the alleged brief and within a text box, in block capitals and in bold within the annex of the Notice. This highlighted that, as the Enforcement Notice covers the same matters recently refused planning permission, any Ground A appeal would need to be made against the planning refusal and not through the Enforcement Notice.

The land in question is also the same land subject of a previously issued PCN with these matters in addition to the location plan issued alongside the notice.

### The Appellant's position

The Appellant states 'the land' has been used for the storage and maintenance of boats and parking of motor vehicles for many years. He states that 'the land' was initially soil, but gradually this was developed with "*power station ash which formed a hard and compacted surface not dissimilar to tarmac*". The Appellant claims to have maintained the land in this way for some time, until approximately 20 years ago power station ash

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was no longer favoured and “[f]or the last 20 years we have maintained the surface of the area”. During this period, the Appellant claims to have continuously used ‘the land’ for the storage of boats and the parking of vehicles.

### The Council’s position

It is the position of the Council that publicly accessible evidence in the form of aerial photography clearly renders the Appellant’s claim of continual use over a 20+ year period incorrect, as a matter of fact.

Accordingly, the development is unauthorised, has not become immune from enforcement due the passage of time and is considered as contrary to planning policy. This development is harmful to the amenity of the area and the planning enforcement notice should therefore be upheld.

The Council will present a planning application submitted in 2021 (21/02032/FUL) as an application for a proposed car park on ‘the land’. The application was not made retrospectively, makes no reference to any prior hard surfacing or car park use of the land and extensively refers to the application as being for a “*proposed car park*”. The ‘existing’ use of the land at the time (application dated 7<sup>th</sup> July 2021) was given as “*part field, part boat storage*” and photographs taken by officers when considering the application show a green field, without hard surfacing, with a number of boats stored on it. That application was withdrawn by the agent before a decision could be issued on 6 September 2021. No resubmission was made until the 2025 attempt to obtain retrospective planning permission. From other evidence at hand, particularly the aerial photographs, it is the Council’s view that approximately six-months after this application was withdrawn, sometime between February and April of 2022, the work proposed in the 2021 application to develop ‘the land’ into a car park was undertaken by the Appellant without planning permission, and in full knowledge that permission was required and had not been obtained.

The Council intends to present extracts of historic aerial photography over a period of 24 years, going back to 2004, to demonstrate that the land was not used for car parking, and was not hard surfaced for such a use until as recently as February – April 2022. This supports the Council’s view of the development is sufficiently recent in origin to not be immune from enforcement.

The evidence it shall present will illustrate that during the period where the Appellant intends to argue a hard surfaced park use, there are periods when the land in question was clearly under the plough and being routinely planted and harvested for agricultural purposes. This will be most clearly seen in images from 2006, 2007, 2011, 2016, 2018 and 2019, all during the 20-year period when the Appellant believes he will be able to demonstrate that the land was a hard-surfaced car park.

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The use continued c. 2019 and onwards until early in 2021 as identified in aerial photography, when boats appear stored on the land for a period of approximately a year, before the boats are removed and the land is hard surfaced and seen in use for car parking for the first time in April of 2022.

Two iterations of closely spaced aerial photography also exist from February 2022 and April 2022, that show that the car park was hard surfaced and brought into use some time between February-April 2022. The aerial photography provides a very precise time period for the creation of the car park as operational development and the beginning of the use of the land for that purpose.

The Council will also present documents submitted by the Appellant in 2012 for a retrospective application for retention of an adjoining car park (12/00300/FUL). This application makes no mention, and associated plans do not show, any car park on the appeal site which sits to the east of the car park being applied for in 2012. Whilst the Council appreciates that 2012 is more than 10 years ago, it is further evidence to dispute the claim made by the Appellant that the appeal site was in use and hard surfaced as a car- park as long ago as c. 2006.

The Council will also submit details of the retrospective planning application submitted in 2025 (25/00888/FUL) seeking approval for the car park retrospectively, which states that the use for which approval is sought had commenced in January of 2020. Whilst the Council, and the other evidence it presents disputes that the use commenced as early as January 2020 it will form part of the Council's case that the Appellant has submitted information with a declaration that the information within it is accurate to the best of his knowledge, which does not support his stance on appeal that the use commenced some 20 years ago.

In addition to the application form, the Council received a number of letters and emails from the Appellant whilst considering that application, claiming variously and inconsistently that the land had been used as a car park for "over 80 years", "since the 1940's", or that it had been used for that purpose since the boat yard was created in 1972 – all inconsistent with his latest position that it has been in use from at least 11 October 2005 (20+ years).

It is the Council's intention to rely heavily upon factual evidence in the form of dated aerial photography, which in its opinion does not require extensive interpretation or to be built upon by professional opinion, stands as it does, on its own merits as exhibited evidence. This evidence will both call into question the position being advocated by the Appellant and present evidence in favour of the Council's view that this car park came into existence sometime between the start of February and the end of April in 2022.

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Should the appeal proceed via an Inquiry then a proof of evidence will be submitted by the Council primarily as a vehicle for the presentation of exhibits and a commentary to run alongside, rather than to facilitate professional opinion.

### Appendices

Appendix A: Various aerial photography and street view extracts from Google Earth Pro and Google Maps 2004 – 2025

Appendix B: Documents from Planning Application 12/00300/FUL for retrospective planning permission for retention of a car park on land adjoining the appeal site to its west.

Appendix C: Documents from 2025 attempt to obtain retrospective planning permission (25/00888/FUL) for the car park subject of the current appeal

Appendix D: Application 21/02032/FUL – Withdrawn application for proposed car park on agricultural/boat storage land.