

EASTLEIGH BOROUGH COUNCIL

**Town and Country Planning Act 1990 (As Amended by the
Planning and Compensation Act 1991) – Section 78**

LOCAL PLANNING AUTHORITY'S STATEMENT OF CASE

Planning appeal against the refusal of planning permission for the proposed construction of a warehouse for storage and distribution (Class B8) together with a relocation of existing parking apron for first response vehicles and ancillary works

**Broadway Farm, Broad Oak, Botley, Southampton,
Hampshire, SO30 2EU**

Appeal by: Luken Beck on behalf of CCW Services Ltd.

Planning Inspectorate Reference: APP/W1715/W/23/3326789

Eastleigh Borough Council Reference: F/22/94108

September 2023

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1.0 Introduction

- 1.1 The following statement sets out the Local Planning Authority's (LPA) reasons for refusal of planning application F/22/94108 and provides more detailed justification for those reasons. Where relevant to the reasons for refusal, responses to any matters raised within the Appellant's statement of case are also provided.
- 1.2 The appeal application was received and made valid on 2nd November 2022. It was given a reference number of F/22/94108 and the following description:
"Proposed construction of a Warehouse for storage and distribution (Class B8) together with a relocation of existing parking apron for first response vehicles and ancillary works".
- 1.3 The application was determined under delegated powers and the formal decision notice was issued on 1st February 2023. The reasons for refusal were as follows:
 - 1) *The proposed warehouse and its associated external areas of hardstanding, together with the proposed new external parking/storage area, is a substantial expansion of the existing industrial operations onto previously undeveloped land outside the urban edge and within a designated Settlement Gap, resulting in urbanising physical and visual harm upon the gap and the landscape character of the locality. As such, the application is considered to be contrary to Policies S5, S6, DM1 and DM18 of the adopted Eastleigh Borough Local Plan 2016-2036, and the Council's Supplementary Planning Document 'Quality Places'.*
 - 2) *Insufficient information has been provided to demonstrate that the proposed warehouse and its associated external areas of hardstanding, together with the proposed new external parking/storage area, will not result in unacceptable harm to the adjacent Ancient Woodland and designated Site of Importance for Nature Conservation through damage to existing trees and habitat or pollution of the adjacent watercourse through discharge of surface*

water. As such, the application is considered to be contrary to Policy DM11 of the Eastleigh Borough Local Plan 2016-2036, and the Council's Supplementary Planning Document 'Biodiversity'.

- 1.4 A copy of the LPA's decision notice was sent to the Planning Inspectorate with the LPA's Appeal Questionnaire.

2.0 Description of Appeal Application

- 2.1 The appeal application sought consent for the construction of an additional warehouse building of 560 sqm GIA, including new hardstanding to serve the warehouse to its south, which would measure approximately 1,250 sqm. The warehouse would be of the same scale as the largest of the existing three warehouses which sit across the centre of the site, with the new building to the east. There are further buildings to the rear (north), west and a number of smaller ancillary staff accommodation structures to the south behind the street fronting bungalow.
- 2.2 The proposals also included the provision of a new parking area of approximately 2,000 sqm to the north-west of the existing developed part of the site. This area is currently undeveloped paddock and would be finished in grasscrete, together with new boundary/buffer planting. This new parking area would replace an existing area of hardstanding to the north-east of the site which was laid without consent, and which it is proposed to pull up and provide an attenuation pond as part of a new SUDS drainage scheme to serve the new proposed warehouse and its associated hardstanding area. The proposals also include extensive new landscape and tree planting, as well as planted earth bunds to visually screen the development.

3.0 Site & Surroundings

- 3.1 The site lies outside the urban edge and within a designated Settlement Gap on a short stretch of road between the settlements of Hedge End to the west and

Botley to the east. Immediately surrounding the site is agricultural land used for grazing and arable purposes.

- 3.2 The land within the Appellant's ownership which is associated with the appeal is split into three sections: a central built up area where a number of warehouses and other associated buildings are located; an open paddock area to the east, where the unauthorised area of hardstanding has been laid to the northern end; and a further area of paddock to the west, where the new parking apron is proposed to be located.
- 3.3 The site slopes gently up in a northerly direction from the road before levelling off around halfway into the site and dropping down again towards the north-western corner.
- 3.4 There are no trees of note within the site, other than a line of trees along the eastern side of the main entrance route at the front of the site. There are further trees within boundary planting to the western side of the site, together with an area of woodland to the north and east.
- 3.5 The southern site frontage is set back from the road and screened by a large chalet bungalow to the western side, with a post and rail fence with new hedge planting behind atop a bank on the eastern side. The eastern side is generally marked by a 2.0 metre high hedge, as is most of the western boundary, although this hedge is closer to 4.0 metres. The rear northern boundary is generally wooded but is more open to the north-western corner, where the new parking area is proposed.
- 3.6 The site was originally used as an agricultural smallholding but has for the past 25 – 30 years been used by a haulage firm for storage and distribution purposes, albeit has seen rapid expansion in the past few years. The site consists of a number of storage/warehouse buildings of varying sizes, as well as open areas used for lorry parking, loading and unloading. To the south of the main warehouse structures is an area of hardstanding used for staff parking and vehicle storage. A further area of tarmac hardstanding has been laid to the east of the main site, again used for vehicle storage and which forms part of previous

withdrawn planning applications and which this latest application proposes to remove.

4.0 Relevant Planning History

- 4.1 The appeal site has had a number of planning applications and certificate of lawfulness applications in addition to that currently at appeal which are relevant. These are set out in the table below. Should the Inspector wish to see more details of any of these applications, these can be provided.

Application Ref:	Description	Decision
LDC/23/95111	Lawful Development Certificate for an existing use or operation: Building operation by the laying of sub-base hardcore (type one crushed concrete) with concrete based cellular 'grasscrete', together with the parking of motorised vehicles to include heavy vehicles and trailers in accordance with an Operator's Licence.	Refused Aug 2023
F/22/93195	Construction of a Warehouse for storage and distribution (Class B8) together with a parking apron for first response vehicles and ancillary works.	Withdrawn Jul 2022
F/21/91859	Construction of a warehouse for storage and distribution (Class B8) with ancillary works including parking area, together with retention of tarmac hardstanding for open vehicle storage.	Withdrawn Jan 2021
F/17/81201	Retention of 2No. product handling/storage buildings and alterations and extensions to existing pallet storage building in association	Permit Mar 2019

	with the continued use of the site for storage and distribution (Use Class B8).	
LDC/17/80680	Lawful Development Certificate for proposed construction of a new material handling/storage building (Use Class B8).	Certificate Issued Feb 2018
Z/17963/001/00	Use of rear yard for pallet repair and storage with retention of relocated portable office and shed.	Refused Jul 1997 – granted temporary approval at appeal Sep 1998
Z/17963/00A/00	Erection of detached bungalow and integral garage.	Permit Mar 1978

5.0 Development Plan & Legislative Background

5.1 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require a Local Planning Authority determining an application to do so in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the policies of the Eastleigh Borough Local Plan 2016-2036 and the Hampshire Minerals and Waste Plan 2013 (which is not applicable in this case). The NPPF and the Planning Practice Guidance constitute material considerations of significant weight.

5.2 The policies of the Eastleigh Borough Local Plan 2016-2036 which apply to the appeal development are:

Strategic Policies:

- S1 (Delivering sustainable development);
- S2 (Approach to new development);
- S4 (Employment provision);

- S5 (New development in the countryside); &
- S6 (Protection of settlement gaps)

Development Management Policies:

- DM1 (General criteria for new development);
- DM2 (Environmentally sustainable development);
- DM6 (Sustainable surface water management and watercourse management);
- DM8 (Pollution);
- DM11 (Nature conservation);
- DM13 (General development criteria - Transport); &
- DM18 (Extension and replacement of non- residential buildings in the countryside)

5.3 For the purposes of this appeal, the most relevant policies are considered to be: S5; S6; DM1; DM11; and DM18.

5.4 The relevant Supplementary Planning Documents are:

- Quality Places (November 2011);
- Biodiversity (December 2009); &
- Trees & Development (April 2022)

6.0 National Policy

6.1 At national level, the National Planning Policy Framework (NPPF) is a material consideration of significant weight in the determination of planning applications. It states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and sets out a general presumption in favour of sustainable development.

6.2 Three dimensions of sustainability are to be sought jointly: economic (supporting economy and ensuring land availability); social (providing housing,

creating high quality environment with accessible local services); and environmental (contributing to, protecting and enhancing natural, built and historic environment) whilst local circumstances should also be taken into account, so that development responds to the different opportunities for achieving sustainable development in different areas.

7.0 Reasons for Refusal

7.1 Below is a more detailed justification for the reasons for refusal and where relevant, comments on the Appellant's Statement of Case.

7.2 Reason 1: - Impact upon the Countryside and Settlement Gap

The proposed warehouse and its associated external areas of hardstanding, together with the proposed new external parking/storage area, is a substantial expansion of the existing industrial operations onto previously undeveloped land outside the urban edge and within a designated Settlement Gap, resulting in urbanising physical and visual harm upon the gap and the landscape character of the locality. As such, the application is considered to be contrary to Policies S5, S6, DM1 and DM18 of the adopted Eastleigh Borough Local Plan 2016-2036, and the Council's Supplementary Planning Document 'Quality Places'.

7.3 The appeal site lies outside the urban edge and within an area designated as Settlement Gap, where Policies S5, S6 and DM18 apply.

7.4 Policy S5 sets out the forms of development considered acceptable within the countryside, which can include the "the extension and replacement of existing employment uses" provided the requirements of Policy DM18 are complied with. Policy S5 goes on to state that "In permitting new development in the countryside the Borough Council will seek to... avoid adverse impacts on the rural, woodland, riparian or coastal character, the intrinsic character of the landscape including the avoidance of adverse landscape impacts on areas adjoining national parks and their settings, the significance of heritage assets

and on the biodiversity of the area”. In basic principle therefore, further development of the existing site is acceptable, provided no unacceptable harm results.

- 7.5 Policy S6 relates to development within Settlement Gaps and states that development within these areas will be permitted provided it would not undermine the physical extent and/or visual separation of settlements; and would not have an urbanising effect detrimental to the character of the countryside; or the separate identity of the adjoining settlements.
- 7.6 Policy DM18 sets out when the extension or replacement of non-residential buildings outside the urban edge will be permitted and that development must also accord with the general development criteria and transport policies of the Local Plan. Strictly speaking that proposed is not seeking the extension or redevelopment of an existing building, rather the expansion of an existing employment use outside the urban edge. Nonetheless, DM18 is still considered to be relevant. The policy sets out the following criteria:
- a. the existing building is in lawful use and is not subject to a temporary permission;*
 - b. the extension or replacement building is for a non-residential use;*
 - c. the extension or replacement building would not have an urbanising effect on the countryside in terms of its density, scale, massing, layout and height;*
 - d. access, car parking, landscaping and services can be provided without having a detrimental impact on the character of the countryside;*
 - e. so far as possible the property is sustainably located in terms of accessibility by means of transport other than the private car;*
 - f. the extended building or its replacement would be located within the existing curtilage unless its relocation or extension would contribute to improving the character and quality of the local area;*

g. in the case of a replacement building, the proposal also includes the demolition of the building to be replaced; and

h. the development would not by itself or cumulatively with other recently permitted schemes undermine the Council's strategy for the development of employment-related floorspace (see strategic policy S4).

- 7.7 Whilst the general requirements of criteria *a*, *b* and *h* appeared to be met, criteria *g* not being relevant, there are concerns in relation to the remaining requirements of the policy, which are set out in more detail below.
- 7.8 Although an improvement in some respects to previously withdrawn applications, the appeal scheme involves expansion of the current operations outside the defined curtilage of the existing use into undeveloped countryside, thereby resulting in a physical encroachment into the surrounding countryside and Settlement Gap. This and the resulting visual impact of that proposed is the LPA's principal concern.
- 7.9 The Appellant's agent makes reference to the wording of Policy S6, the first part of which states that "Development within a Settlement Gap as set out in the policies map will be permitted provided that: a. it would not undermine the physical extent and/or visual separation of settlements;". Specific reference is made to the word 'undermine' and that the use of this word within the policy allows for appropriate development within a Settlement Gap, which could include the expansion of an existing employment use. In simple terms the LPA would not disagree with this interpretation. However, it should be noted that the definition of undermine is to '*lessen the effectiveness, power, or ability of, especially gradually or insidiously*'. Whilst not preventative, Policy S6 is clear in that any development should not result in unacceptable harm to the gap.
- 7.10 The second part of Policy S6 goes on to state that development will only be permitted if "*b. it would not have an urbanising effect detrimental to: i. The character of the countryside; or ii. The separate identity of the adjoining settlements.*" It is the LPA's view that it is this second part of the policy which is more important.

- 7.11 That proposed would result in a substantial expansion of the existing operation eastwards and to the north-west onto land which has not been previously developed. At the time of the 2017 application (F/17/81201) much effort was made to ensure that operations remained within the confines of the existing boundary hedging to the east and west, where it would benefit from visual screening and ensure that the industrial use and adjoining non-industrial uses could be clearly demarcated. It is acknowledged that much work has gone on in recent years to tidy up the site and provide better quality buildings but this further expansion of the site beyond its originally defined boundaries shows that the site may have reached the limits of its capacity.
- 7.12 In terms of the appearance of the proposed warehouse building, it would match those that currently exist on site, and conditions could be applied to ensure appropriately coloured facing materials are used. Conditions could also be applied requiring the proposed additional landscape and tree planting to help screen the development is implemented within a reasonable timescale and appropriately managed. Notwithstanding, the amount of landscaping required to screen the proposed development would be substantial and take a considerable length of time to establish and grow to the height and density required to provide sufficient visual mitigation.
- 7.13 The main central industrial site benefits from a reasonable level of screening to the east and west by the original boundary hedges, the adjoining woodland to the north and the chalet bungalow fronting Broad Oak to the south. Whilst the warehouse buildings can be seen above the boundary hedge, the day-to-day operations of lorry movements, etc. are generally shielded from public view, albeit it is clear that a not insubstantial business is run from the site.
- 7.14 The proposed expansion of the site into the open paddock to the east would result in much of the existing mature boundary hedge being removed, providing clear views into the main site. Whilst new boundary planting is proposed, including tree planting, as set out above, this would take some years to mature to a level where an equivalent level of screening is achieved, particularly given that a suitable mixture of native planting would be required rather than fast

growing leylandii or laurel. Whilst general public views into the site are limited, views are still nonetheless available from Broad Oak, Cobbett Way, Woodhouse Lane and a public bridleway to the north. Much of the site's current screening is also outside the applicant's control, such as the woodland to the north.

- 7.15 The proposed new/replacement parking area to the north-west would potentially be more visible from longer range views via Woodhouse Lane to the north. Whilst this part of the site does benefit from mature boundary tree planting, it is much less dense than elsewhere along the northern site boundary. Again, substantial new tree and boundary planting is proposed, as well as surfacing the parking area with grasscrete, in order to assist in limiting its visual impact. However, this planting would again take some years to mature to a height and density sufficient to screen the development. The use of grasscrete also does little to assist in limiting the visual impact when the area is full of parked vehicles, particularly the ambulances proposed, which are purposely finished in bright high-visibility livery
- 7.16 Even if the visual impact of that proposed could be mitigated to an acceptable extent, the fact that the development would be less easily seen cannot overcome the physical, urbanising and industrialising impact it would have upon the countryside and Settlement Gap. Were the development to remain confined within the existing industrial site boundaries, then it may be deemed to be acceptable with appropriate mitigation. However, its expansion beyond the current confines will undermine the gap, lessening its effectiveness, contrary to Policy S6 of the adopted Local Plan.
- 7.17 That proposed is also considered to be contrary to Policies S5, DM1 and DM18 in that it would not respect the existing character of the immediate area or surrounding landscape, rather it would have an adverse and urbanising impact, impacts that are specifically highlighted within S5.2.a., DM1.a.i. & c. and DM18.c, d & f. as being unacceptable.

7.19 Reason 2: - Insufficient information to demonstrate no harm upon SINC

Insufficient information has been provided to demonstrate that the proposed warehouse and its associated external areas of hardstanding, together with the proposed new external parking/storage area, will not result in unacceptable harm to the adjacent Ancient Woodland and designated Site of Importance for Nature Conservation through damage to existing trees and habitat or pollution of the adjacent watercourse through discharge of surface water. As such, the application is considered to be contrary to Policy DM11 of the Eastleigh Borough Local Plan 2016-2036, and the Council's Supplementary Planning Document 'Biodiversity'.

7.20 This reason for refusal makes reference to the adjacent Site of Importance for Nature Conservation (SINC) as being Ancient Woodland. As has been picked up by the Appellant's agent, this is not correct and was a result of an error with the Council's internal mapping system. The adjacent 'Woodhouse Gully Wood' SINC designation is a two part SINC which includes a second area of woodland to the north-west. It is this area of woodland which is classified as Ancient Woodland. This error is acknowledged but does not alter the LPA's view that insufficient information was provided during the course of the application to demonstrate that no unacceptable harm would result from the proposed development.

7.21 Having reviewed the information again (see Appendix A), the LPA's Ecologist has now confirmed that the 20 metre buffer set out in her original response was incorrect for what was presumed at the time to be Ancient Woodland. Rather than 20 metres, it should have been 50 metres. Notwithstanding it has now been established that the immediately adjacent woodland is not Ancient Woodland, it is still classified as a 1A/1C(ii) priority habitat (wet woodland) SINC. That being the case, a 20 metre undeveloped buffer is still required, given that the woodland contains a stream which is a tributary of the protected waters of the River Hamble SAC and must be protected with an appropriate buffer. No additional information has been submitted in relation to ecology as part of the

appeal. As such, her original comments remain valid, the only change being to remove the word ancient and add wet woodland priority habitat.

7.22 With regards to impact or otherwise on trees, prior to determination, the LPA had not been supplied with a tree protection plan to accompany the submitted Arboricultural Impact Assessment (AIA), despite mentioning one under two different references: “LLD2481-ARB-DWG-001” and “LLD2481-ARB-DWG-002.” The Appellant has now provided one, reference “LLD-2481-ARB-020-04-TRPP-drainage overlay”. This has been reviewed by the LPA’s Tree Consultant (see Appendix B), together with the original AIA, who has raised a number of concerns.

7.23 These concerns relate to a number of matters including: apparent inaccuracies with the submitted Tree Protection Plan not tying up with the original topographical survey; inaccurate root protection areas; and lack of protective fencing where I would usually be expected. Whilst information has been provided, it is all very generic and does not take into account particular site aspects. Although some details could be secured by condition, there is currently insufficient site specific detail for the LPA to be satisfied that the proposed works would not result in unacceptable harm to adjacent trees and woodland, which are important natural features which enhance the character and visual amenity of the locality.

8.0 Conclusion

8.1 Were that applied for within the existing confines of the central industrial site, then further development may be considered acceptable. However, the substantial expansion of the operation and urbanisation of previously undeveloped land to the east and north-west within an area defined as Settlement Gap is considered unacceptable and damaging to the landscape character of the area, particularly in such a narrow area of gap as that between Hedge End and Botley. As such the application is considered to be contrary to the requirements of Policies S5, S6, DM1 and DM18 of the adopted Local Plan.

- 8.2 In addition, it has still not been demonstrated that the proposed development would not result in unacceptable harm to the adjacent SINC and protected waters, contrary to saved Policy DM11 of the adopted Local Plan.
- 8.3 For the reasons set out above, the LPA would respectfully request that the Inspector upholds the reasons for refusal and dismisses the appeal. However, should the Inspector be minded to allow the appeal, the LPA would request that the conditions set out in Appendix C be considered.