

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

**Appeal on behalf of Maurice Doe
[CCW Services Ltd]**

Against the decision of Eastleigh Borough Council to refuse a Certificate of Lawful
Existing Use or development

at

Broadway Farm,
Broad Oak,
Botley
SO30 2EU

LPA Reference: LDC/23/95111
Appeal Ref: **APP/W1715/X/23/3331326**

APPELLANT'S SUPPLEMENTAL STATEMENT OF CASE

Graham Beck JP, MBA, LLB (Hons), BA (Hons), Dip TP.

Contents

1.0	INTRODUCTION	4
2.0	SUPPLEMENTAL STATEMENT OF CASE	4

Appendices

- 35. Expanded aerial photograph 2014
- 36. Expanded photograph 2015
- 37. Expanded photograph 2016
- 38. Expanded photograph 2020
- 39. Aerial photograph of the parking apron produced by Getmapping plc, dated 4th June 2013
- 40. Aerial photograph of the parking apron produced by Getmapping plc, dated 21st June 2017
- 41. Photograph taken 5th August 2016 looking north across the apron with parked trailers and haulage lorry
- 42. Photograph taken 9th August 2016 looking north across the apron with parked trailers
- 43. Photograph taken 16th August 2016 looking northwest across the apron with parked trailers
- 44. Photograph taken 18th August 2016 looking north across the apron with parked trailers
- 45. Photograph taken 1st June 2017 looking north across the apron with parked trailers
- 46. Photograph taken 2nd June 2017 looking north across the apron with parked trailers
- 47. Photograph taken 1st July 2017 looking north with parked haulage lorries and trailers
- 48. Photograph taken 1st July 2017 looking northwest with parked trailers and haulage lorry
- 49. Photograph taken 2nd July 2017 looking north across the apron with parked trailers, haulage lorries and a tractor

50. Photograph taken 4th July 2017 looking northwest across the apron with parked haulage lorries and trailers
51. Photograph taken 19th June 2018 looking northeast across the apron with parked haulage lorries
52. Landscape Section drawing A1_L1003 prepared by Fabrik Landscape Architects
53. 2013-SK100-P1 Site Layout LDC Land (A1 500)
54. 2013-SK200 Site Section LDC Land (A1 250)
55. Overall appraisal by S Guillan
56. Viewpoint 2 looking north towards the appeal site
57. Viewpoint 4 looking towards the appeal site
58. Statutory Declaration made by Jamie G Hawkhead
59. Statutory Declaration made by Craig George
60. Statutory Declaration made by Andrew Tracey
61. Statutory Declaration made by R. B. Harris

1 Introduction

- 1.1 A Statement of Case was submitted on behalf of the Appellant with the appeal form in October 2023. At that time, it was noted that in refusing the application for an LDC, the Council appeared to have relied upon information and/or documentation that had not been disclosed to the Appellant (see paragraphs 1.5, 4.5-4.6, 4.35-4.36, 4.45, and 4.47 in particular).
- 1.2 The Appellant was provided with the Council's Questionnaire and attachments on the 6th November 2023, which contains further information and documentation not previously disclosed. Having considered the same, it is considered necessary to produce this Supplemental Statement of Case on behalf of the Appellant.
- 1.3 As its name suggests, this Supplemental Statement of Case should be read alongside the original Statement of Case submitted with the appeal.

2 Supplemental to Statement of Case for the Appellant

- 2.1 The Council's Questionnaire and attachments now includes the following, in summary, not previously commented upon by the Appellant:
 - i) The identity of local residents whose representations in respect of the LDC application it would appear that the Council relied upon together with copies of those representations;
 - ii) Google Earth images not previously disclosed.

- 2.2 In addition, the Appellant has been approached by additional people who have a connection to their site and have become aware of the appeal offering to provide evidence in support. To that end, further statutory declarations to those provided at the time of the LDC application are appended to this Supplemental Statement of Case and are summarised below.
- 2.3 For the avoidance of any doubt, and in an effort to be proportionate in respect of inquiry time, the Appellant still intends to call no more than 8 witnesses at the inquiry in due course however will seek to rely upon the statutory declarations produced in full with the Inspector applying whatever weight he or she sees fit.

Representations/additional information provided with the Council's Questionnaire

- 2.4 Material has become available from two local residents who live to the east and west of the Broadway Farm site at Springtime Cottage and Mallow Cottage respectively. Both comment on the engineering operation carried out in 2006 as well as the parking activities over the last 10 years, referring to aerial photographs available on Google Earth Pro. The Appellant disputes their evidence.
- 2.5 In summary, regarding the engineering operation in 2006 to install the grasscrete, references are made to Google Earth Pro aerial photographs dated before 2005 and after 2007 suggesting that because there is no discernible

difference in the appearance of the field in question, it follows that the engineering operation did not take place.

2.6 Comparing the two photographs, even when magnified, the pixelations remain inconclusive. In 2006, when the grasscrete was laid down, it was the objective of the Applicant to lay the grasscrete in such a way that enabled the grass to grow through and around the blocks so it should be no surprise that the photographs should be similar.

2.7 When considering the parking of haulage vehicles on the land, the Appellant has previously explained (paragraphs 4.36, 4.43, Statement of Case) that the snapshots available on Google Earth Pro are unreliable hence they were not submitted with the initial application. For example, the time of year, the weather conditions and the requirement to park vehicles and trailers is heavily dependent upon the number and type of contracts and the distribution of the vehicles around the country, the majority of which are on the roads during the day.

2.8 Upon closer examination of the aerial photographs, particularly when the photographs are expanded, in September 2014¹, April 2015², August 2016³ and May 2020⁴ there is clear evidence that vehicle tracks are visible in the area the subject of the appeal. Regrettably, the quality of the April 2012 photograph is not good although there are traces of tracks visible at high resolution.

¹ Appendix 35

² Appendix 36

³ Appendix 37

⁴ Appendix 38

- 2.9 Given the above information which has now been shared, the Appellant has obtained further photographic evidence from reliable and independent sources supporting the application for the LDC.
- 2.10 In addition to the seven aerial photographs submitted by two local residents for the period 2013 – 2023, two further aerial photographs taken on the 4th June 2013⁵ and the 21st June 2017⁶ have been obtained by the Appellant from Getmapping plc, a private company which also holds geomapping data.
- 2.11 Once again, this data is inconclusive but the first aerial photograph dated the 4th June 2013 clearly illustrates heavy use of the field evidenced by tyre tracking. The second photograph dated the 21st June 2017 not only shows 14 large trailers parked up but the ground is heavily scarred with tyre marks indicating a good deal of vehicular movement.
- 2.12 Since drafting the Statement of Case, the Appellant has found a series of photographs taken between August 2016 and June 2018 (Appendices 41 – 51 inclusive)⁷ which confirm vehicular activity of the parking apron over this period. It is noted that Google Earth Pro does not include any of these photographs in the brief snapshot of time they relate to.
- 2.13 Comments have also been mentioned and questions raised in connection with the Haulage Licenses which have been obtained over the period exceeding the ten-year period. The reason for their inclusion was simply to provide evidence

⁵ Appendix 39, Aerial photograph of the parking apron produced by Getmapping plc, dated 4th June 2013

⁶ Appendix 40, Aerial photograph of the parking apron produced by Getmapping plc, dated 21st June 2017

⁷ Appendices 41 – 51 each show photographs

that CCW Services has operated a haulage and trailer business in excess of the ten-year period wholly in accordance with the Class B8 Warehousing and Distribution business.

2.14 The occupant of Mallow Cottage has made a number of observations in relation to views across Broad Oak into the site and no doubt the Inspector will view same when the site visit is conducted. However, to be clear, the Appellant questions the extent to which this neighbour, and indeed others, would have the ability to see into the site in order to make the stated observations. A Landscape Sectional scaled drawing Ref: A1_L1003 dated 4th September 2023 was prepared by Fabrik Landscape Architects at the request of Botley Parish Council in connection with a recent planning application showing the typical view of a 5' 8" high person standing on the south side of the road looking north.⁸ It illustrates the section B-B from the south side of Broad Oak, north across the site towards the appeal site.

2.15 In addition, a further Section has been prepared by ADP architects and urban design Refs: 2013-SK100-P1 Site Layout LDC Land (A1 500) and 2013-SK200 Site Section LDC Land (A1 250)⁹ illustrating the view from Mallow Cottage across to the appeal site. As the Sections show, it is most difficult to see into the site because the land rises northwards from Mallow Cottage and then descends further north into the appeal site.

2.16 It is noted that the occupant of Mallow Cottage has stated he cannot comment on the engineering operation conducted in 2006 whilst the occupant of

⁸ Appendix 52 - Landscape Section drawing A1_L1003

⁹ Appendices 53 and 54

Springfield Cottage doubts that the grasscrete was installed, relying on aerial photographs which, in the opinion of the Appellant, remain unreliable.

2.17 Simon Guilan has prepared some photographic material illustrating four 'View points' (in red), three reference points (in blue) and from each view point there is a directional photograph taken from the south side of Broad Oak into the CCW Services site. See Appendix 55¹⁰ for the overall appraisal. View point 2 is taken outside Mallow Cottage looking north and the photograph clearly shows a view looking into a grass bank, the southern boundary of CCW Services.¹¹ View point 4¹² is taken from Springfield Cottage looking obliquely towards the appeal site which cannot be seen due to the embankment and trees. In any event the section drawings, prepared by the architect and landscape architect, as well as the photographs from Broad Oak produced by Simon Guilan (designer-technology), suggest that it is very difficult to see the parking apron at all.

2.18 Doubt is also raised by the occupant of Springfield Cottage regarding the 4 trial holes illustrating the depth of hardcore material with the Terram membrane beneath. These holes remain open and the Inspector will be able to view the material personally. Furthermore, a section of road construction from the City of York is referred, suggesting this to be a typical construction for the laying of grasscrete, which clearly it is not because the standards for road construction are very different from the laying of grasscrete.

¹⁰ Appendix 55 – Overall appraisal by S Guilan

¹¹ Appendix 56 – Viewpoint 2 looking north towards the appeal site

¹² Appendix 57 – Viewpoint 4 looking towards the appeal site

- 2.19 A Section of a typical grasscrete manufacturer has been referred to by the occupant of Springfield Cottage which is available from many manufacturers, but it is equally clear that ‘concealed grasscrete’ is available to those that wish to install grasscrete. Grasscrete is not universally the same and can be manufactured with a number of different materials using heavy plastics or concrete using different shapes, sizes and depths of construction. Not all grasscrete remains exposed and in the case of the appeal, the grasscrete was covered with soil and seeded with grass.
- 2.20 The facts remain that in 2006, the Appellant commissioned G & M Technical Services to install the grasscrete as evidenced at Exhibit 4 of the Statutory Declaration of Anthony Heathfield attached to the Statement of Case. Following the engineering operation, a layer of soil and grass seed was spread over the top by the Appellant.
- 2.21 It is the series of aerial photographs taken from Google Earth Pro from 1999 to 2022 which the occupant of Springfield Cottage has submitted to the Council which they appear to then rely upon to refuse the LDC for the continued use of the parking apron for the last 10 years, 2013 – 2023.
- 2.22 There are seven photographs available for the period 2013 – 2023, each photograph representing a snapshot in time and all taken during the day when it will be said that the majority of haulage vehicles were on the road. Of the seven photographs, four show a consistency of tyre tracks on the eastern fields.

2.23 Various remarks have been made by the local resident at Springfield Cottage in the form of captions beneath the photographs; for example, under the May 2020 photograph, it is suggested that there is no evidence of any degradation of the grasscrete which might require repair. It is also noted by the objector that due to a change in access arrangements, the area was not in regular use. The grasscrete lies beneath the grass layer and could not possibly be seen from an aerial photograph for which reason the photograph is unreliable as evidence. Secondly the southerly access has been in situ since circa 2012 with tyre tracks clearly visible on the photographs for 2016 and 2019.

2.24 The same comments are repeated under five of the seven relevant photographs (taken during the 10 year period) that *“The area in question is in the top right hand corner, and the whole field has a similar appearance, suggesting that it is just grass, with no grasscrete”*. This has no foundation because, as will be explained in due course, the Appellant covered the grasscrete with soil and spread grass seed in 2006 immediately after the material was installed which explains the grass appearance from the aerial photography. This point will be clarified further at the inquiry.

Further Statutory Declarations in response to the LDC appeal

2.25 Following the further notifications from the Council regarding the appeal, four individuals have come forward in support of the LDC and have produced Statutory Declarations.

- 2.26 Mr Hawkhead¹³ is a contractor supplying and maintaining vehicles on the site since 2005 having regular personal knowledge of the land in question. He has taken photographs on the 19th June 2018 which, incidentally, do not appear on Google Earth Pro. The photographs, attached to the statutory declaration, show four haulage vehicles and a van parked on the apron but the detail also shows the ground where the grass is parched through a combination of hot summer weather and constant use by the vehicles.
- 2.27 Mr Craig George¹⁴, another contractor supplying Forklift Trucks to CCW Services since 2001 states clearly that since 2004, he has attended the site regularly on a weekly basis and testifies that vehicles have been parked on the apron during all of that time.
- 2.28 Mr Andrew Tracey¹⁵ is a Director of County Crest Pallets, a business which has operated from the site since 2000. Mr Tracey has daily knowledge of the site throughout the last 23 years and whilst he cannot recall any specific dates for the engineering operation when the grasscrete was installed, he has personal experience of trailers and vehicles being parked on the apron. He remembers CCW Services borrowing heavy equipment to remove the parked vehicles from the site prior to the grasscrete being installed. For a time, County Crest Pallets parked their own vehicles on the land.

¹³ Appendix 58, Statutory Declaration by Jamie Hawkhead

¹⁴ Appendix 59, Statutory Declaration by Craig George

¹⁵ Appendix 60, Statutory Declaration by Andrew Tracey

- 2.29 Mr Harris¹⁶, a co-owner and Director of County Crest Pallets has also attended the site daily since 2000 and given the close proximity of the business to the parking apron, has an intimate knowledge of the various changes that have taken place since. He says he is aware of the grasscrete engineering operation but cannot be specific on dates but is sure that trailers and vehicles have parked on the apron since before 2006 because he remembers vehicles being stuck in the field and afterwards when it became much easier to move vehicles once the grasscrete had been installed.
- 2.30 In summary, the material now revealed by the Council, which appears to provide the basis for the decision to refuse the LDC application, relies on comments made by two local residents living on the south side of Broad Oak, neither of whom seem to have direct daily knowledge of how the site has operated during the ten-year period.
- 2.31 Much reliance is placed upon conjecture and seven Google Earth Pro aerial photographs which the Appellant has stated from the outset are unreliable for a variety of reasons.
- 2.32 It is noted that Botley Parish Council has submitted further comments in an email dated the 5th July 2023 but in the absence of any material that may assist, there are no further observations made at this time.
- 2.33 For the reasons set out in the originally submitted Statement of Case, as well as these more recent comments, we would invite the Inspector to allow the appeal.

¹⁶ Appendix 61, Statutory Declaration by Mr R B Harris

GB November 2023