

EASTLEIGH BOROUGH COUNCIL

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED BY THE
PLANNING AND COMPENSATION ACT 1991), SECTION 195**

**TOWN AND COUNTRY PLANNING APPEALS (DETERMINATION BY
INSPECTORS) (INQUIRIES PROCEDURE) (ENGLAND) RULES 2000**

PROOF OF EVIDENCE

OF

Mr John Saunders

Appeal by Maurice Doe, CCW Services Ltd

Appeal Site: Broadway Farm, Broad Oak, Botley, Southampton, SO30 2EU

Planning Inspectorate Reference: APP/W175/X/23/3331326

Local Authority Reference: LDC/23/95111

Eastleigh Borough Council
Civic Offices
Upper Market Street
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February 2024

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1. INTRODUCTION

- 1.1 I am a Planning Enforcement Officer at Eastleigh Borough Council.
- 1.2 I have been employed by Eastleigh Borough Council since October 2006 in a variety of roles. I have been working as a Planning Enforcement Officer for over four years.
- 1.3 Although I act on behalf of the Council, I understand my professional duty is to assist the Inspector by providing evidence which is true. In this regard I can confirm that the opinions expressed are my true and professional opinions. I am familiar with the appeal site and planning/enforcement history to the appeal. I have visited the site four times in preparation for the appeal inquiry and as part of on-going planning/enforcement investigations.
- 1.4 This Proof of Evidence will cover the site and its surroundings together with the background to the appeal. I will also cover the Planning Enforcement history of the site and my involvement in the investigation of the building operations and unauthorised use of the land at Broadway Farm. Finally, I will provide my contributions on the main issues 3 on the appeal, as summarised by the Planning Inspector at the case management hearing on 25 January 2024, which I attended.
- 1.5 My Proof will be read in conjunction with the Proofs of Evidence of:
 - Gary Osmond
 - Ross Blakemore

2. DESCRIPTION OF APPEAL

- 2.1 The Certificate of Lawfulness application was made under section 191 of the Town and Country Planning Act 1990 and submitted to the Council and registered as valid on 25th April 2023. It was assigned reference number LDC/23/95111. The description on the application form is as follows:

“Building operation by the laying of sub-base hardcore (type one crushed concrete) with concrete based cellular ‘grasscrete’ as illustrated on Plans 1 and 2 attached, together with the parking of motorised vehicles to include heavy vehicles and trailers in accordance with an Operator’s Licence dated 28th June 2010, and subsequent renewals which remain ongoing and evidenced in Affidavits.”

- 2.2 The application was refused on 29th August 2023, the reasons for which are stipulated below:

“The Council is not satisfied that the use described in the First Schedule at the land described in the Second Schedule is lawful due to insufficient evidence that the land has been used for the parking of motorised vehicles, including heavy vehicles and trailers, for a period in excess of 10 years as of 24th April 2023 being the date of this application.”

“The Council considers that the subsequent building operation of the laying of Tarmacadam at the land described in the Second Schedule constitutes new engineering works which have commenced a new chapter in the planning history for the application site. As such, the Council cannot issue a Certificate for the engineering works described in the First Schedule.”

- 2.3 The decision notice was issued on 29th August 2023.
- 2.4 An appeal against the Council's decision to refuse the application for a certificate of lawfulness was lodged on 13th October 2023, reference APP/W1715/X/23/3331326.

3. BACKGROUND

Planning Enforcement Investigation ENF/2021/58

- 3.1 Eastleigh Borough Council were first made aware of the change of use of the land and development in February 2021 following a complaint from a member of the public that the field to the east of Broadway Farm (“the appeal site”) was being used for the storage of vehicles with a hedge planted to screen the area from the main road, a case was raised under reference **ENF/2021/58**.
- 3.2 I contacted Mr Doe via e-mail concerning the alleged breach, Mr Doe responded on 29th March 2021 (EX01) advising that the site layout had been extended to accommodate his new client – the NHS and South-Central Ambulance Service.
- 3.3 A site inspection was arranged, and I attended Broadway Farm and met with Mr Doe on 14th April 2021. Mr Doe advised that one of his main clients, the cosmetics brand “Estee Lauder”, were in the process of moving their business to a new warehouse in Andover and he would be losing their work over the coming year, Mr Doe confirmed to me that he was aware the development undertaken required permission however he had to accept the work with the NHS and promptly create the new parking area to the north east of the site to secure the future of his business. I noted this conversation on my mobile Salesforce case notes, Salesforce is the program used to store images and case notes of the Investigation. I specifically recall that there was no mention of any existing use of the site for parking vehicles or a previous grasscrete surface.

- 3.4 Mr Doe showed me to the northeast of the site where I found recently made access created in the established hedgerow which opened out onto a tarmac parking area, at the entrance the sign stated the area was for “NHS parking only”. However, I noted that the new tarmac parking area was used in full and housed a mixed variety of vehicles including cars - a large number of Skoda’s which appeared to be unrelated to the NHS, some ambulances, taxis and “DPD” delivery vans. I noted the presence of heras fencing around the perimeter of the tarmac parking area, this blocked access to Woodhouse Gulley Wood to the north and east of the site and the remainder of the eastern field to the south. Woodhouse Gulley Wood, an ancient woodland and site of importance for Nature Conservation, runs along the northern and eastern borders of Broadway Farm. In terms of layout, the DPD vans were on the northern border and ambulances, taxis and Skoda’s on the southern border. The heras fencing blocked access to woodhouse gulley wood to the north and east and access to the remainder of the east field to the south. Images of the area were taken (EX02).
- 3.5 Following this meeting, I undertook a check of the planning history at Broadway Farm and could not see that there were any applications to expand the use of site as a distribution and storage yard into the east field or to undertake any development, nor had any contact been made enquiring if permission was required.
- 3.6 The planning history confirmed a planning use of logistics and storage yard confined to the area outlined in red on the attached plan (EX03). I noted that previous applications made at the site over recent years have only referenced the outlined area as being used as a distribution and storage yard and have designated the fields to the east, encompassing the now appeal site, and west of the Broadway Farm as agricultural.

- 3.7 In planning application F/17/81201 for *Retention of 2No. product handling/storage buildings and alterations and extensions to existing pallet storage building in association with the continued use of the site for storage and distribution (Use Class B8)*, the owners exclude the appeal site, fields to the east and west of the site from the area used for logistics and storage.
- 3.8 I note that the planning statement accompanying that application on page 4 section 3.2 references the fields adjoining the site as consisting of open grazing land separated by well-defined and mature boundary planting with no mention of an existing grasscrete /sub-base surface as is now alleged.
- 3.9 I also checked satellite imaging from which it was clear that the entirety of the east field had been grass prior to the tarmac being laid. Our “Cadcorp” mapping system confirmed that the appeal site was designated countryside and part of the strategic gap between Botley and Hedge End. In summation, due to a significant change in material use at the appeal site; the appeal site being agricultural land now taking on a B8 use without permission; the operational development comprised in laying of the tarmac not benefiting from planning consent; that operational development having been undertaken within the last four years and the harm caused from the loss of open green space the new development and use was deemed to be in contradiction to policies DM, S5 and S6 of the adopted Eastleigh Borough Local Plan (2016-2036) I concluded that there had been a breach of planning control.
- 3.10 I therefore sent a letter to Mr Doe dated 14th April 2021 advising that the works breached planning control and a retrospective planning application was required if he wished to retain the use and development of the area (EX04).

- 3.11 Mr Doe submitted a planning application on 4 November 2021 for *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* under reference F/21/91859 therefore case ENF/2021/58 was closed.
- 3.12 This application was accompanied by a detailed planning statement to support the approval of the application and provide argument to develop and use the countryside and strategic gap for B8 purposes however, I note that this application made no reference to a previous grasscrete surface or 10 plus years of historic parking on the site (EX05). Following Mr Doe's decision to withdraw application F/21/91859 on 6th January 2022 a new Enforcement case was raised on 10th January 2022 under reference ENF/2022/14.

Planning Enforcement Investigation ENF/2022/14

- 3.13 Contact was made with Mr Doe's agent Graham Beck who advised that application F/21/91859 had been withdrawn as Mr Doe intended to submit a revised scheme for submission to the planning team. On 4th May 2022 Mr Beck advised that he had contacted the Parish Council and would be meeting with the Planning and Highways committee to explain their proposal prior to submission of the new planning application (EX06).
- 3.14 A Planning Application was submitted on 8th June 2022 for *Construction of a Warehouse for storage and distribution (Class B8) together with a parking apron for first response vehicles and ancillary works* under reference F/22/93195 therefore case ENF/2022/14 was closed on 16th June 2022.

Planning Applications F/22/931

- 3.15 This application was also accompanied by a detailed planning statement to support the approval of the application and provide argument to develop and

use the countryside and strategic gap for B8 purposes however makes no reference to a previous grasscrete surface or 10 plus years of historic parking on the site (EX07).

- 3.16 Mr Beck contacted the planning team and made the decision to withdraw application F/22/93195 in order to resubmit a revised application, on 28th July 2022 application F/22/93195 was withdrawn. A new application for *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* was submitted on 4th November 2022 under reference F/22/94108.
- 3.17 This application was accompanied by a detailed planning statement to support the approval of the application and provide argument to develop and use the countryside and strategic gap for B8 purposes however makes no reference to a previous grasscrete surface or 10 plus years of historic parking on the site (EX08).
- 3.18 On 1st February 2023 application F/22/94108 was refused, a new Enforcement case was raised under reference ENF/2023/169 on 17th April 2023 however an appeal against the refusal of F/22/94108 was submitted on 27th July 2023 (withdrawn on 26th October 2023).
- 3.19 As part of that appeal, I note that the statement of case (5.45) proposes removal of the tarmac from the appeal site and building a parking area on the opposite field surfaced with grasscrete to act as an alternate permeable surface (EX09).

4. SITE VISITS

- 4.1 I conducted a site visit on 9th May 2023, Mrs Doe showed me to the tarmac parking area to the north east of the site, outside of the heras fencing separating the tarmac parking area from the southern part of the east field there had been a bund erected (EX10), this ran along the southern boundary of the tarmac parking area with a gap in the middle allowing access to the southern grassed area of the east field. No other development apart from the bund had been undertaken however there were now a large number of pallets stored on the land as well as trailers from the haulage business and ambulances (EX11).
- 4.2 On 13th July 2023 I attended the site with Claire Dinnage in respect of application LDC/23/95111 for *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.*
- 4.3 We inspected the tarmac parking area to the north east of the site, once again the entirety of the area was in use and on this occasion it had trucks and trailers stored on one side of the site with ambulances stored on the other, there wasn't any further development of the site, the only change was that the pallets had been removed with vehicles from the haulage business and ambulances only stored on the land. Images of the site were taken (EX12).
- 4.4 My final visit to the site was on 22nd January 2024 to inspect the four bore holes created in each corner of the extended tarmac parking area to the northeast of the site and I would refer to the inspection analysis, images and

conclusions set out in the statement of Ross Blakemore. I attended with Claire Dinnage, Gary Osman and Ross Blakemore (EX13).

5. MAIN ISSUES OF THE APPEAL

- 5.1 In this section of my proof of evidence, I will set out my contributions on the issue 3 identified by the Planning Inspector at the Case Management Hearing namely whether or not the subsequent building operation comprising of the laying of the tarmacadam constitutes new engineering works which have commenced a new chapter in the planning history for the site.
- 5.2 Mr Doe has confirmed via e-mail on 29.03.21 (EX01) that there had been fundamental changes to the business and with a significant increase in activity at the site with 80 London Taxis, 20 Skoda first response cars, 20 Land Rover Discovery vehicles and 25 ambulances requiring secured and easy access “24/7” parking resulted in the creation of the tarmac parking area in the east field.
- 5.3 This confirms the area was created to provide the 24/7 access and secured parking for a large number of vehicles to support the expanding business. The use of the area only intensified to the levels of current use once the tarmac had been laid and new entrance created to accommodate the new vehicle storage work with the NHS. There had been no need for such large-scale development on the appeal site to support the business needs prior to the NHS work and no evidence has been provided to support the fact the NHS vehicles were parked on the appeal site prior to the laying of the tarmac.
- 5.4 Point 9 of the statement provided by Mr Doe confirms that the previous use of the site varied depending on the requirements of the business (a point which is dealt with by my colleague Mr Osmond), but Mr Doe advised the use intensified to 24/7 access.

- 5.5 Previous planning applications submitted within the last ten years prior to application F/21/91859 have never required the land in question for logistics and storage use or referenced the area in any way other than its original agricultural status.
- 5.6 “If” grasscrete had in fact been in place for the last ten years the operational development of the laying of the tarmac would still require planning consent as the tarmac surface, substantially completed within the last four years as evidenced as still being under construction in December 2020 (EX14), is materially different from the original surface and goes beyond maintenance and repairs.
- 5.7 Grasscrete is a permeable concrete surface designed to retain a natural and soft landscaped feel, whereas tarmac is a completely different non-permeable material which provides a stark and hard aesthetic therefore is considered to be new development.
- 5.8 It is also important to consider the works within the context of the appeal site. Prior to the laying of the tarmac the green and natural aesthetic of the east field was in keeping with the surrounding fields, woodland and designated countryside fulfilling an important planning purpose as part of the “strategic settlement gap”. The tarmac surface has provided an unduly prominent and visually intrusive build form, which provides a stark and urbanising effect on what was open grazing land.
- 5.9 “If” the area had been used as a parking apron for 10 plus years there has been no evidence provided to support the activity being at the levels of current use, both Mr and Mrs Doe have advised that the land was historically used depending on the needs of the business however the tarmac has been

laid to support an intensification of use the land for 24/7 regular access as confirmed by Mr Doe.

6. CONCLUSION

- 6.1 I have set out above my views in relation to the third issue namely that the operational development comprising of the laying of tarmacadam was in this case part and parcel of the unauthorised and intensified change of use of the appeal site. For the above reasons I respectfully request that the Planning Inspector dismiss this appeal.