

TOWN AND COUNTRY PLANNING ACT 1990 – S174 APPEAL

PLANNING APPEAL SUBMITTED IN RESPECT OF THE DECISION OF THE EASTLEIGH BOROUGH COUNCIL TO SERVE AN ENFORCEMENT NOTICE FOR THE ALLEGED UNAUTHORISED CHANGE OF USE OF THE LAND AT BROADWAY FARM, BROAD OAK, BOTLEY, SO23 2EU TO PARKING AND STORAGE B8 WITH ASSOCIATED UNAUTHORISED TARMAC HARDSURFACING, UNAUTHORISED DRAINAGE AND UNAUTHORISED LIGHTING

1. INTRODUCTION

- 1.1. This appeal submission sets out the grounds of appeal on behalf of CCW Services Ltd (the Appellants) against the decision of the Eastleigh Brough Council (the LPA) to serve an Enforcement Notice regarding the alleged unauthorised change of use of land to parking and storage with associated unauthorised tarmac surfacing, unauthorised drainage and unauthorised lighting.
- 1.2. The Appellants run a successful warehousing business that employs some 150 workers drawn from the immediate area. As such, the Appellants have an annual wage bill of some £2.5m but in addition to also use local businesses to serve their operation and at the present time therefore generate some £5.9m for the local economy each year.
- 1.3. Part of the success of the site stems from unique characteristics of the site that allow for a high-security regime, which means that no products have ever been stolen or gone missing from the site.
- 1.4. The ability to virtually guarantee a secure site is highly valued by the Appellants' clients and secures the contracts that allow the operation to continue and flourish and thereby make a significant contribution to the local economy.
- 1.5. An Enforcement Notice in respect of the above was served on the Appellants on the 6th February 2024. The alleged breach of control is the unauthorised change of use of land to parking and storage with associated unauthorised tarmac surfacing, unauthorised drainage and unauthorised lighting. The effective date of the Enforcement Notice is the 10th March 2025.

1.6. The Appellants' grounds of appeal are as follows:

Ground (a) – *that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged.*

Ground (b) – *that those matters have not occurred.*

Ground (d) – *at the date when the notice was issued, no enforcement could be taken in respect of any breach of planning control which may be constituted by those matters.*

Ground (g) – *that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.*

1.7. This Appeal Submission will expand on the Appellants' Grounds of Appeal, setting the economic case for the development, within the context of the National Planning Policy Framework and the Eastleigh Borough Local Plan (2016-2036). It will also directly address the stated concerns of the LPA in respect of the unauthorised lighting and drainage strategy.

1.8. With regard to the Local Plan, the statement will address the balance between policy S5, which seeks to support the expansion of rural businesses in the countryside, and policy S6 which seeks protect the strategic gap. It will be argued that there is no demonstrable harm to the character of the countryside as a result of the presence of the hardsurfaced area nor associated activity such as the presence of HGVs or stacked pallets. Evidence in support of this will include the following:

- A Landscape Visual Impact Assessment that demonstrates that the site is visually well contained and set well away from the public domain.
- A lighting strategy that demonstrates there will be no light spill from the site and thus no impact on the wider area or character of the area.
- A drainage strategy that demonstrates issues with regard to drainage in close proximity to wet woodland can be addressed.

1.9. It will therefore be argued that the proposed development does not undermine the function of the Strategic Gap or harm the character of the area.

1.10. The Appellants' business makes a very significant contribution to the Borough's economy and there are no viable options for an alternative site that will meet client needs. The provision of a hardsurfaced area is crucial to the

continued operation of the Appellants' business and the Appellants are open to providing such an area elsewhere within the site. As such, the Appellants are in the process of preparing two separate applications for alternative hardsurfaced areas within the wider site. These will comprise of a proposed hardsurfaced area in the following areas:

- In the western portion of the site, and;
- A variation of the hardsurfaced area subject to the Enforcement Notice appeal – so that this area is set away from the neighbouring area of woodland.

1.11. In the event of the LPA granting consent for either alternative scheme, subject to agreeing suitable timescales for implementation the Appellants will then withdraw the current Enforcement Notice appeal. However, in the event that the LPA refuse both applications then appeals will be submitted in respect of one or both refusals. Subject to timescales it would be anticipated that these appeals could be heard at the same time as the current Enforcement Notice appeal.

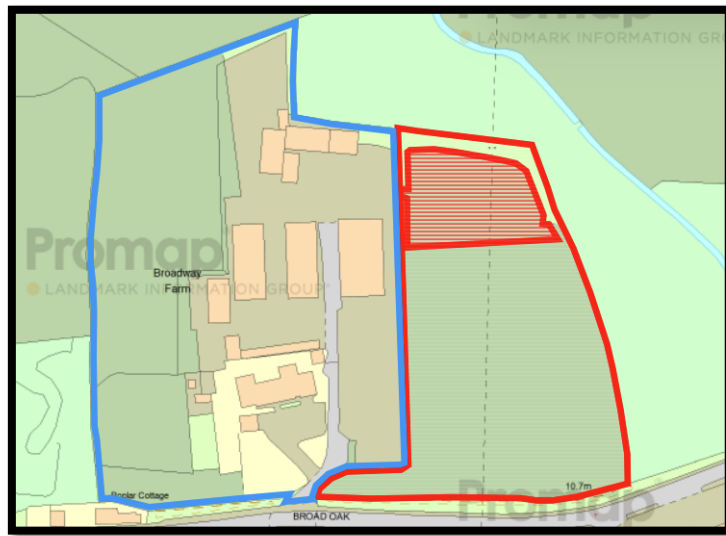
1.12. The Appellants are keen to work with all parties in order to secure a form of development that allows their business to continue to operate in the simplest and most acceptable manner possible.

2. THE SITE AND SURROUNDING AREA

2.1. The Appeal Site (i.e. the land edged red on the Enforcement Notice plan) forms part of a larger site comprises some 3.5 hectares owned and operated by the Appellants. The Appellants' business comprises the following components:

- Warehouses at the centre of the site to include circulation space and vehicular parking area
- Dwelling
- HGV parking and loading area in the northern portion of the eastern field – this is part of the Appeal Site
- Open fields – the open field on the eastern side of the site forms part of the Appeal Site

2.2. The site is as per the following extract:



2.3. The area edged red comprises the extent of the EN (as defined in its attached plan). The hardsurfaced area is hatched red. The remainder of the site, to include the warehousing uses on-site, is edged in blue.

2.4. The site is located to the north of Broad Oak – which provides the vehicular access to the site. Broad Oak provides the primary western approach to Botley and comprises the easiest route to the M27. It is therefore an important and busy road.

2.5. The on-site activities are more clearly shown on the following aerial photograph of the site - the hardsurfaced area subject to the Enforcement Notice, located in the northeastern corner of the site, is hatched red;



2.6. The area to the north and east of the Appeal Site is an area of woodland designated as a SINC and woodland.

2.7. Richmond Garage is located to the south west of the development site some 130m to the east of the access to Broadway Farm.

3. PLANNING POLICY CONTEXT

Local Planning Policy

3.1. The adopted Local Plan (LP) is the Eastleigh Borough Local Plan 2016-2036.

3.2. The entire site is identified as being located in the countryside and the Settlement Gap;



3.3. Policy S1 looks to deliver sustainable development;

3.4. Strategic policy S1, Delivering sustainable development

1. *To be sustainable, new development in the Borough should:*

c. maintain and help to grow a high-performing local economy that benefits the Borough, south Hampshire and the wider economy, without adverse impact on south Hampshire's city, town and other centres, the quality of the local environment or local transport networks;...

3.5. Policy S5 refers to new development in the countryside;

Strategic policy S5, New development in the countryside

1. *Planning permission will be granted for new development in the countryside provided it is related to:*

a. the provision of employment through agricultural development (policy DM17), the extension and replacement of existing employment uses (policy DM18) and the re-use of existing buildings (policy DM19);...

2. *In permitting new development in the countryside the Borough Council will seek to:*

a. 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;

b. secure long-term beneficial management practices that will enhance the landscape and biodiversity of the countryside and coast;

c. avoid sterilisation of mineral resources, in accordance with the Hampshire Minerals and Waste Plan;

d. safeguard the best and most versatile agricultural land unless the benefit of the development clearly outweighs the loss; and

e. protect soils during construction wherever possible in line with the 'Defra code of practice for the sustainable use of soils on construction sites'.

3.6. Policy S6 refers to settlement gaps

Strategic policy S6, Protection of settlement gaps

1. 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; and*
- b. it would not have an urbanising effect detrimental to:*
 - i. The character of the countryside;*
 - ii. or The separate identity of the adjoining settlements*

3.7. Policy DM1 seeks to set out general criteria for new development;

Policy DM1, General criteria for new development

1. All new development should (as relevant):

- a. not have an unacceptable impact on, and where possible should enhance:*
 - i. residential amenities of both new and existing residents; the character and appearance of urban areas, the countryside and the coast;*
 - ii. biodiversity (avoiding significant adverse impacts); and*
 - iii. the significance of heritage assets;*
- b. make efficient use of the site, maximise opportunities to increase density and have regard to potential development opportunities on adjoining land;*
- c. take full and proper account of the context of the site including the character, appearance and land uses of the locality or neighbourhood, and be compatible with adjoining uses and be well integrated with these in terms of mass, scale, materials, layout, density, design and siting, both in itself and in relation to adjoining buildings, spaces and views. Where adjoining development is poor in urban design terms, new development should contribute to improving the character of the area;*
- d. not involve the loss of or damage to trees, woodlands, hedgerows, ponds, priority habitats or other landscape features of value to the character of the area, for appearance or biodiversity unless they can be replaced with features of*

equivalent or enhanced value, (recognising that some species and habitats may be irreplaceable);

e. include a landscape scheme covering the design and layout of external space;...

g. provide satisfactory management arrangements for all landscape, green infrastructure and biodiversity enhancement;

3.8. Policy DM18 refers to non-residential buildings in the countryside;

Policy DM18, Extension and replacement of non-residential buildings in the countryside

- 1. The extension or replacement of non-residential buildings in the countryside will be permitted, subject to the general development criteria and transport policies of this Local Plan and provided that:*
 - 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).

National Planning Policy

3.9. The National Planning Policy Framework (NPPF) was published on the 12th December 2024, which sets out the Government's national planning policies and how they should be applied.

3.10. Paragraph 2 of the NPPF states the following:

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan and is a material consideration in planning decisions.

3.11. Paragraphs 7 and 8 refer to the requirement to achieve sustainable development:

7. The purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development and supporting infrastructure in a sustainable manner. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

8. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*

- c) *an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*

3.12. Paragraph 48 reinforces the requirement to determine planning applications in accordance with the development plan unless material considerations indicate otherwise:

48. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

3.13. Paragraph 56 refers to the use of planning conditions to make an otherwise unacceptable scheme acceptable:

56. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.

3.14. Paragraph 60 specifically refers to enforcement, stating that it should be proportionate to the breach:

60. Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.

3.15. Section 6 of the NPPF refers to Building a strong, competitive economy.

85. Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly

important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.

87. Planning policies and decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for:

b) storage and distribution operations at a variety of scales and in suitably accessible locations that allow for the efficient and reliable handling of goods, especially where this is needed to support the supply chain, transport innovation and decarbonisation; and

c) the expansion or modernisation of other industries of local, regional or national importance to support economic growth and resilience.

3.16. Paragraph 88 seeks to support a prosperous rural economy

88. Planning policies and decisions should enable:

a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, new buildings;

b) the development and diversification of agricultural and other land-based rural businesses;

3.17. Paragraph 89 seeks to support businesses in rural areas;

Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

4. BACKGROUND/PLANNING HISTORY

4.1. There have been a number of applications on site, including the following:

- 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.*

This application related to part of the Appeal Site and was refused at appeal – dated 7th May 2024.

- F/22/94108 - *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*

Refused 1st February 2024

Concerns were raised over the urbanising effect and visual harm of the proposals would have on the settlement gap.

- 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 July 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 January 2021

- F/17/81201 - *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).*

Permit Mar 2019

- LDC/17/80680 - *Lawful Development Certificate for proposed construction of a new material handling/storage building (Use Class B8).*

Certificate Issued February 2018

- Z/17963/001/00 - Use of rear yard for pallet repair and storage with retention of relocated portable office and shed.

Refused July 1997 – granted temporary approval at appeal September 1998

- Z/17963/00A/00 - Erection of detached bungalow and integral garage.

Permitted March 1978

5. **THE APPELLANT'S CASE**

5.1. **Ground (b) Appeal:** *that those matters have not occurred*

5.2. It is argued that the red line of the EN is too broadly drawn and unnecessarily encompasses the field to the immediate south of the hardsurfaced area.

5.3. This field is an open area of land, and whilst it was in the past used to provide a vehicular access to the hardsurfaced area this actively has ceased some five years ago. The field does not contain any hardsurfacing and not is it used to accommodate, load or unload HGV's or store pallets.

5.4. Whilst it is acknowledged that the field contains matting this was placed on site in excess of ten years ago (so as facilitate the movement of HGV's). This aspect of the site is clearly immune from enforcement action and should therefore be removed from the scope of the EN.

5.5. **Ground (d) Appeal:** *no enforcement could be taken in respect of any breach of planning control*

5.6. The red line that comprises part of the Enforcement Notice includes the field to the south of the hardsurfaced area. This area has previously used to facilitate access for HGVs to the northern part of the site (i.e. the hardsurfaced area) and for a relatively short period of time to accommodate motor cars. The use of the land for this purposes has now ceased.

5.7. This area includes matting that was laid to facilitate access to what is now the hardsurfaced area. This matting is still in-situ (and was designed so as to allow for the grass in the field to grow through it thereby minimising visual impact).

5.8. One of the requirements of the Enforcement Notice is as follows:

- *Remove all vehicles, rubber matting, materials and other items associated with the B8 storage and parking use from the land*

5.9. It is therefore anticipated that the LPA include the matting on this field as part of the Enforcement Notice.

5.10. The LPA served a Planning Contravention Notice with regard to the field. In response the Appellants' confirmed that this matting was laid on-site in 2006.

5.11. The matting has therefore been on-site for more than ten years and therefore is lawful as set out in S191(2) of the Act.

5.12. In support of this contention evidence will be provided under oath confirming the dates of the matting.

5.13. The standard of proof required on the part of the applicant is no more than the balance of probability. This is set out in *FW Gabbittas v SSE [1985] JPL 630*, where the High Court held that the applicants own evidence does not need to be corroborated by independent advice in order to be accepted.

5.14. Ground (a) Appeal: Permit As Built

5.15. The ground (a) appeal argues that consent should be granted for the development as built.

5.16. The area of hardsurfacing is used by the Appellants to service the warehousing use on-site. It is an integral part of the operation. Without this hardsurfaced area the existing business will not be able to function as it

services the warehousing use on main site. The loss of this area will result in the loss of vital contracts, with the resultant loss of local jobs and associated harm to the local economy.

5.17. The appeal site has a number of unique qualities that simply cannot be replaced which revolve around security and flexibility of operation. As such, clients are able to entrust the Appellants to store and distribute high value products on-site with a very limited risk of theft. This high level of confidence allows for the continued operation of the business on-site. Failure to provide a suitable loading and unloading area on-site will unacceptably compromise the wider operation of the site.

5.18. The unique qualities of the site are set out in the Economic Statement that accompanies this appeal submission and includes the following:

- The site is under the control of one organisation, namely the Appellants. This means access to/from the site can be closely monitored 24 hours a day.
- There is only one access into and out of the site i.e. from Broad Oak. This enhances the ability to keep the site secure. The access road, within the site, approaching the commercial element is over 65m long with limited opportunities for large vehicles to turn round. This access road, as is the rest of the site, is subject to CCTV surveillance which should be an added deterrent to would be thieves.
- The site is bounded to the north, east and west by fields and woodland. There is no opportunity for motorised vehicles to access the site from these areas. These areas are largely in the control of the operator who values this relative isolation.
- Due to the nature of the business and client requirements the on-site operation is 24/7. Due to the relatively isolated nature of the site, being set well away from neighbouring residential neighbours, this is possible in this location and no known complaints in terms of noise nuisance or any other concerns.
- There are no planning conditions with regard to hours of operation on-site and it can operate 24/7.

- 5.19. As a result of the above qualities the application site is able to provide 24/7 security to include the provision of a barrier controlled by a security guard. The security barrier and cabin are provided 65m within the site which provides ample space for vehicles entering the site to be suitably screened without creating a potential tailback of vehicles to the highway.
- 5.20. The benefits of the on-site security also include the ability of clients to transfer high value goods between vehicles within a secure environment overlooked by CCTV cameras.
- 5.21. The Economic Statement also sets out the benefits of the existing facility to the local economy. This includes some 75 full time and 75 seasonal workers the majority of whom are based in the local area i.e. within five miles of the appeal site. The Appellants have confirmed that their annual wage bill is some £2.5m but in addition to also use local businesses to serve their operation and at the present time therefore generates some £5.9m into the local economy.
- 5.22. Analysis is also provided, in the Economic Statement, in respect of available alternative sites within the region that the Appellant could, in theory, relocate to. At the time of writing this statement there are some eleven sites of between 15,000 to 50,000ft². However, it is clear that none of the sites provide the minimum security requirements that the Appellants; clients require – typically they are too small or too big and all of them are part of a wider industrial estate. The Appellants are clear that relocation to an alternative site will result in loss of vital contracts and therefore loss of local employment.
- 5.23. Similarly, the nature of the Appellants' primary client, as an international concern, means that the loss of their contracts will not simply mean that contracts will be provided to other local companies. The Appellants are clear that those contracts will be re-allocated to mainland Europe and thus their value will be lost the whole economy.
- 5.24. There is inadequate space, within the operational element of the site, to accommodate the required loading and unloading area that is currently provided on the hardsurfaced area. If, therefore, the use of this area ceases then

this will mean that the Appellants will simply not be able to fulfil their contracts, which will then be lost.

5.25. A letter from the Appellants is attached that sets out the following points with regard to economic importance of the site:

- The Appellants are the only business in the UK which has a storage and distribution contract with Estee Lauder.
- One of the key factors that Estee Lauder considers when awarding contracts is the location and security of the site. The site is secure, well screened from the wider area and isolated from neighbouring uses.
- The hardsurfaced area is essential for the operation of the business. The Appellants are aware that to fail to meet Estee Lauder's strict operational requirements will result in the termination of their contract and the operation will be relocated to Oevul in Belgium.

5.26. The existing site is effectively constrained by the built form. It is acknowledged that there is a hardsurfaced area in the southern portion of the site. However, this area is in close proximity to neighbouring residential properties. Given the requirement of the Appellants to operate 24/7 and to be able to respond at short notice it is clear that the southern parking area will have to be used most, if not every night. Whilst such operation would be acceptable in planning terms it is clear that to do so will create a significant adverse impact on local residential amenities. This in turn could lead to EBC taking action, in the form of a noise abatement notice that would compromise the ability of the Appellants to operate from the site.

5.27. This parking area is currently being used by Richmond, a local car dealership some 130m to the south-east of this area to facilitate deliveries. This provides a community benefit by minimising impact to the local highway network during the delivery of vehicles. Requiring Richmond to find alternative arrangements could therefore create inconvenience locally.

5.28. The NPPF puts great weight on the benefits that businesses provide to the local economy and as particularly set out in Section 6, to include the following:

- The need to support economic growth taking into account local business needs (para 85).
- Decisions should recognise specific locational requirements to include the expansion of industries of local, regional or national importance (87)
- Recognition should be given to the need to provide for rural businesses outside established settlement boundaries (89).
- In such circumstances it will be necessary to ensure that impact is sensitive to its surroundings (89).

5.29. The Local Plan also contains policies that support local businesses and the local economy to include the following:

- A commitment to maintain and help a high-performing local economy (policy S1)
- Support for the extension and replacement of existing employment uses – where adverse impact on the character of the area be made (S5).
- The primary use is a lawful use, does not have an urbanising effect and not harm the character of the area (DM18)

5.30. Policy S6 of the Local Plan requires that new development should not undermine the physical extent or visual separation of settlements.

5.31. It is therefore argued that the Appeal Site is a vital part of the on-site operation and that without it the business will fail the consequences of which would be significant harm to the local economy. This is a significant material consideration in respect of the ground (a) appeal that is in favour of the scheme.

5.32. Local Plan policy allows for development in the countryside and Settlement Gaps where potential harm is acceptable or can be mitigated.

5.33. The LPA identify potential harm as a result of the physical works and use of the hardsurfaced area and the Appellant has sought to address these concerns in the following area:

Visual impact

5.34. The hardsurfaced area is located to the north of the wider site and well away from neighbouring residential properties and the public domain. It is well screened. This area and activity associated with it (i.e. the use of this area to accommodate HGVs and pallets) will be barely discernible from these areas.

5.35. This is clearly set out in the Landscape Visual Impact Assessment (LVIA) that is submitted as part of the appeal.

5.36. The LVIA makes the following points:

- The effects on the character and appearance of the local landscape associated with the existing development on the site are primarily localised. Physical changes are confined to the site. The wider area's physical characteristics remain largely unaltered.
- The site is outside any statutory landscape protection designations and does not affect the South Downs National Park or other local natural features.
- No notable landscape features that contribute to the character of the area have been removed as a result of the existing development.
- The design of the parking/storage area, although functional, is in keeping with the area's character, providing a development that is wholly suited to its context.
- The development has not significantly altered the perceived separation between the settlements of Hedge End and Botley, nor has it perceptibly encroached into the countryside. The site is visually enclosed, with minimal visibility from public locations, and the Settlement Gap's integrity is maintained.
- The visual appraisal undertaken for the existing development demonstrates that the area from where the development can be seen is extremely limited.
- The existing development is entirely screened by the layering of existing vegetation in the intervening landscape between most possible observers and the site boundary.
- Where visible, the existing development is barely discernible and is seen as only discrete elements rather than in its entirety so that any residual visual effects are judged to be no greater than negligible. In summer, with a full

leaf cover on the deciduous vegetation the visual impact of the existing development might be seen would contract further. The existing visual integrity and appearance of the local landscape is maintained substantially unaltered with the existing development in place on the site.

- The existing development on the site does not appear unduly prominent or dominant as a feature and is experienced in the context of other existing development rather than as an incongruous separate and isolated entity.
- It is considered that any harm to the general visual amenity of the local area and landscape brought about by the proposed development being in place would be limited and of an acceptable level.
- There would be no loss of public views as a consequence of the proposed development being in place on the site.

Drainage

5.37. The Appellants have instructed consultants to prepare a drainage strategy in order to demonstrate that the run-off as a result of the use of the hardsurfaced area by HGV vehicles will not harm the integrity of the adjacent woodland.

5.38. Due to limited consultant availability and the time constraints imposed on the Appellants in respect of the submission of the Enforcement Notice Appeal it has not been possible to submit the drainage strategy at the present time. However, this report will follow as soon as possible so as to demonstrate actual impact in this regard.

Lighting

5.39. The Appeal is supported by the attached lighting strategy.

5.40. The report notes that there are four lights that are mounted 1m above ground level, at peripheral locations facing the hardsurfaced area. However, they have a 90° tilt and a wide beam – as such there is currently light spill to the adjacent woodland and light glow when viewed from Broad Oak.

5.41. The report sets out a strategy to provide enhanced lighting on site that will remove the potential for light spill and light glow by providing four fixed

lights mounted at no more than 1.5m above ground level on 2m high close boarded fences thereby preventing light spill to the rear. They will have a relatively narrow beam so that impact in terms of light spill will be significantly reduced.

- 5.42. In addition to the issues that the LPA has raised in respect of potential impact the Appellant has also commissioned the following reports in order to demonstrate that overall impact of the use of the hardsurfaced area is acceptable.

Noise

- 5.43. A Noise Report is attached that demonstrates that the activity that currently is undertaken on the land subject to the Enforcement Notice would have a low impact on local residential amenities.

- 5.44. The Noise Report provides a comparative analysis of the impact on local residential amenities that would be likely to be created should the southern parking area be used for parking purposes.

- 5.45. These issues revolve around the requirement to operate the site 24/7 so as to ensure that clients needs can be met. As such, deliveries are often required overnight and at short notice. This will involve the loading and unloading of HGV's using fork-lift trucks. There will be noise generated by this activity.

- 5.46. There is therefore a real concern that, due to the close proximity of the southern parking area to neighbouring residential properties, that this activity will create a significant adverse impact on local residential amenities. In turn this could lead to EBC serving a noise abatement notice which would harm the ability of the Appellant's to operate their business.

Highways

- 5.47. The Appeal is also supported by a Highways Statement that demonstrates how HGV's can be accommodated on site.

Ground (g) Appeal:

5.48. The attached Economic Statement sets out the Appellants' concerns that the failure to find an on-site solution in respect of the unloading and loading area will prove to be fatal for the business and that valuable contracts will be lost. As previously set out this will harm the local economy.

5.49. However, in the meantime, there will be a contractual obligation on the Appellants in order to fulfil ongoing contracts. In the event the ground (a) appeal is dismissed and the Appellants are unable to agree an alternative area within the site it is requested that the period for compliance with the EN be extended to two years.

6. PROCEDURE AND WITNESSES

6.1. The appeal should be heard by way of Public Inquiry for the following reasons;

- a. There is a clearly explained need for the evidence to be tested through formal questioning by an advocate, especially with regard to the injury caused by any breach of planning control and how it can be remedied.
- b. It is an enforcement appeal in which evidence needs to be given on oath with regard to whether the matting was laid in excess of ten years prior to the serving of the Enforcement Notice.
- c. The issues related to light, visual impact and drainage are complex and technical and need to be provided in the form of expert evidence.
- d. There may be a requirement to incorporate planning appeals in respect of alternative sites to the immediate south of the existing hardsurfaced area and to the immediate west of the operational development that require consideration of complex issues.

Witnesses

6.2. The Appellants provisionally intend to call the following witnesses to provide expert evidence at such Inquiry:

1. Mark Sennitt B.A.(Hons), P.G.Dip.Law, B.Pl, M.R.T.P.I. – on planning matters.
2. Stephen Wadsworth B.A.(Hons), DipLA, Dip.UD, CMLA– on landscape matters.
3. Ryan Carroll BSc (Hons) IEng MILP – on lighting matters.
4. Mark Smith BA(Hons) Geography, MCIHT – on highway matters
5. Jamie Duncan BSc (Hons), Dip (Institute of Acoustics) – on noise matters
6. Tessa Peplar, BSc (Hons) MSc, MCIEEM – on ecology matters
7. Meagan Weedon – on drainage matters