

TOWN AND COUNTRY PLANNING ACT 1990 – S174 APPEAL

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

APPEAL REFERENCES

APP/W1715/C/25/3361911

APP/W1715/C/25/3361912

REBUTTAL TO LPA STATEMENT OF CASE

1. INTRODUCTION

- 1.1. The following comprises the rebuttal to the LPA Statement of Case in respect of the ongoing appeal in respect of the decision of 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 on land at Broadway Farm, Broad Oak Botley
- 1.2. For ease of reference the numbering of the following paragraphs will reflect the relevant sections and paragraphs of the LPA Statement of Case

2. REBUTTAL

SECTION 2 – SITE DESCRIPTION

2.2 It is agreed that the appellant that their core operation is immediately surrounded by fields that are used for agricultural and agricultural purposes.

2.5 The LPA refer to bank on the eastern side of the site. Presumably this should refer to the southern side of the site. For purposes of clarification the bank on the southern side of the site is between 2-2.2m above the height of the pavement

with a hedgerow on top of the bank. This therefore provides an effective screen to the site from the public highway.

SECTION 4 – GROUND (B) AND (D) APPEAL

4.2-4.4 It is clear that the matting as referenced in the Enforcement Notice has been in-situ since 2006 and evidence will be provided to that effect. The LPA refer to, tested, evidence provided in respect of the appeal reference LDC/23/95111, which referred to the Lawful Development Certificate for the existing hardsurfaced area (i.e. to the north of the matting). However, this application focussed specifically on this hardsurfaced area and not the open field to the south. As such, the presence of the matting was not relevant to that appeal. Furthermore, the appeal Inspector noted that there was no photographic evidence, in the form of aerial photographs, of the presence of grasscrete (that preceded the tarmac hardsurfacing) or evidence in-situ of this grasscrete.

However, in this instance the matting is clearly present on-site and it is clear that aerial photographs are of no assistance in establishing when the matting was laid down. As such, evidence as to when the matting was laid down is clearly of relevance.

SECTION 5 – GROUND (A) APPEAL

VISUAL (PARAGRAPHS 5-5.11)

The LPA make reference to the appeal site being ‘visually prominent’. However, from the most publicly accessible location i.e. highways and public rights of way in the wider landscape surrounding the appeal site, the appeal site is simply not visible.

The LPA can only point to two locations from which the site can be seen. In both these instances, although the site can just be discerned, the site is not seen in its entirety. Importantly too, not least due to the distances involved views into the site, and a visual perception of the activities taking place on it, are also restricted through the presence of existing built form and/or tree and shrub vegetation in the intervening space between the observer and the appeal site.

In neither instant can the site or the existing development be deemed to be prominent i.e. conspicuous.

ECONOMIC – (PARAGRAPHS 5.12 5.16)

The LPA, in effect, are arguing that the use can relocate and be replaced by an alternative storage and distribution use and furthermore that the Appellants have a variety of clients many of which can be retained regardless of the current appeal decision.

However, evidence will be provided in the form of an Employment Land and Economic Impact Assessment (ELEIA) which will set out the economic case for the ground (a) appeal. In essence, the high value nature of existing clients, with a requirement for 24/7 deliveries and high-level security relies on a high staffing level. As such, employment levels at the Appeal Site are significantly higher what would be normally expected from a storage and distribution use at the site (there are currently 110 workers on-site and a standard storage and distribution use on site would expect to generate 25 full time jobs). Thus, if the ground (a) appeal is dismissed then valuable contracts will be lost – unless an alternative location for HGV loading/unloading can be provided.

Therefore, whilst clients may be replaced by other users the inevitable consequence will be that local jobs will be lost. Given that the majority of workers are local people and that annual wage bill is in the order to £2.5m this means that there will be a significant reduction of money every year in the local economy. This is clearly a material consideration in the ground (a) appeal.

In addition, the ELEIA will confirm that there are no local available alternative sites for the Appellants to meet the needs of their clients. The Appellants confirm that, from their knowledge of their clients, that in practice these contracts will be lost to the continent.

DRAINAGE AND LIGHTING – (PARAGRAPHS 5.13 5.16) (repetition of numbering noted)

A drainage strategy will be submitted shortly to all parties. This will demonstrate that effective filtration be provided on-site with no impact on the adjacent SINC in respect of arboriculture or ecology

A lighting strategy has been provided to all parties that confirms that, subject to condition, that impact can be mitigated.

SECTION 6 – GROUND (G) APPEAL (PARAGRAPHS 6.1-6.2)

The site is significantly constrained and there are no viable alternative areas within the operational element of the site for the HGV loading and unloading area. The existing car parking area in the southern portion of the site, (currently used by Richmond Cars) is in close proximity to neighbouring residential properties. Whilst this area can be legitimately used for HGVs the 24-hour nature of the Appellants business will result in potential noise nuisance to these neighbours.

The pallet site, to the north of the site is too small to meet the Appellants needs. In addition, there are, shallow pipes that run through this portion of the site and which are subject to easement rights, which preclude use of this area by HGVs.

The Appellants are exploring options for the provision of an alternative hardsurfaced area within the western field but this is subject receiving an appropriate planning consent.

The Appellants are contractually obliged to provide a service until November 2026. Failure to comply with this contract will create significant harm to the business and local economy.