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12th August 2026

Objection to Application Reference DM/26/1402

Dear Mr Evans,

I write in relation to the above referenced application to register an objection, as a member of the general public, to the grant of a certificate of lawfulness under s.192 TCPA 1990.

In my respectful submission, on a proper review of the authorities, the development of a slaughterhouse on agricultural land plainly amounts to a material change of use and is therefore a use of land that would be unlawful absent specific planning permission being sought and granted. Accordingly, it would be wrong in law for the Council to grant the application for a certificate of lawfulness under s.192 TCPA 1990.

I note that in its email of 7 July 2026, the Council stated that it was not *"presently satisfied that the submitted authorities establish that the slaughtering, processing and butchery of livestock are activities that would be lawful as part of, or ancillary to, the existing agricultural use of the holding such that no material change of use would occur."*

In my submission, the Council's position on the law is correct and is supported both by the existing authorities mentioned in the submission documents and by further authorities as set out below.

As noted by the Court of Appeal in *Harrods Ltd v Secretary of State for the Environment, Transport and the Regions and another* [2003] 1 PLR 108:

"Planning is concerned with balancing the interests of the community with the interests of the landowner -- and one of the things one seeks to avoid is having too much regulation -- but, on the other hand, another thing one seeks to avoid is giving the opportunity to bypass a careful scrutiny of activities that do impact severely (or can do) upon neighbours." (per Schiemann LJ at [22]) (emphasis added)

Relevantly, the Court of Appeal stated more generally in relation to the balance to be struck on this type of application (per Sedley LJ at [29]) that:

"Activity amounting to a material change of use is not banned; it simply requires separate planning permission. Sullivan J, to the quality of whose judgment I, too, would pay tribute, was therefore right to hold that there was no ground for laxity in drawing the line; rather, as he said, the contrary." (emphasis added)

The Court of Appeal made clear that the question of incidental use is an objective one:

"It is not appropriate to concentrate upon what is incidental to this particular shop, given the way in which it is run, and given its needs. The right approach is to see what shops in general have as reasonably incidental activities." (per Schiemann LJ at [22]) (emphasis added, save that the non-italicised 'it' and 'its' reflect the fact that these words were italicised in the judgment)

In holding that the introduction of a helicopter landing pad to the roof of Harrods would amount to a material change of use, the Court of Appeal stated:

"A person who moves next door to a shop can expect normal shopping activities to go on there without there being a requirement for planning permission. A person who moves next door to Harrods can expect things that are normal there and in other emporia of that sort of size. But if what an appellant wants to introduce is not generally associated with what goes on in shops, then it seems probable that parliament intended that neighbours should have the chance to object to the grant of planning permission, and thus force the owner to go through the appropriate procedures to get his planning permission." (per Schiemann LJ at [23]) (emphasis added)

In my submission, the approach of the Court of Appeal in the *Harrods* case applies *a fortiori* in relation to the introduction of a slaughterhouse on land presently used for agricultural purposes. If it were otherwise, noting the objective approach to use that must be taken, it would be implicitly then permissible to introduce a slaughterhouse onto *any* land which is presently used for agricultural purposes.

The definition of agriculture for the purposes of the TCPA 1990 is set out in s.336:

"'agriculture' includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and 'agricultural' shall be construed accordingly;"

Had Parliament intended slaughterhouses to fall within this definition then this could and should have been made plain. Noting that Parliament did not do so, for the Council to nevertheless adopt an expansive approach to bring slaughterhouses within this statutory definition would be wrong in law (as the authorities discussed below demonstrate) and would, in my respectful submission, drive a coach and horses through the important protections provided by the scrutiny of the planning application process.

Noting those important protections, it would plainly be wrong that the inhabitants of an area in which land is used for *any* agricultural purpose (falling within the above statutory definition) necessarily, on the Applicant's case, be deprived of any opportunity to object to the development of a slaughterhouse on that land. This would lead to an absurd situation where the neighbours to a fruit farm could potentially find themselves living next-door to a slaughterhouse without any ability to object. Such an approach would draw the line in precisely the lax manner which was expressly deprecated by the Court of Appeal in *Harrods*.

It is also of course of significant relevance that on a planning application the proposed use as a slaughterhouse would engage animal welfare issues (confirmed to be a material consideration in planning law in *Animal Equality UK v North East Lincolnshire Council & ASL New Clee Limited* [2025] EWHC 1331 (Admin)) relating to animals recognised by Parliament as sentient (Animal Welfare (Sentience) Act 2022). Drawing the line in a lax manner would deprive those sentient animals of the protections afforded by a properly scrutinised planning process, giving rise to another powerful reason why the law properly errs on the side of caution in relation to lawfulness applications.

In my submission, the Council can derive significant assistance from the following cases to support its indicated position on the law:

(1) *Gill v The Secretary of State for the Environment* [1985] Lexis Citation 725

The decision in *Gill* establishes that the slaughtering of animals in large numbers on land for the purposes of producing skins or fur is not within the definition of agriculture. It is submitted that (a) this applies equally in the case of animals slaughtered for consumption and (b) the obiter comment in relation to the occasional killing by a farmer of farmed animals being within the “*normal use of his land*” does not assist an applicant who intends to operate a commercial slaughterhouse processing over 10,000 animals. The relevant part of the judgment bears reading in full:

“In my judgment, the slaughtering wholesale, that is to say, in any large numbers, of animals kept on the land for the purposes of producing skins or fur is not within the definition of agriculture in section 290. It may be that the occasional killing of animals kept on a farm is either di minimis or can reasonably be considered to be ancillary to normal farming activities. I am certainly not to be understood as saying that a farmer who has pigs, sheep, poultry or whatever which he rears and breeds and who kills some of them, is not behaving within the normal use of his land and is doing something which could be subject to an enforcement notice. But, that is not what is in issue here. What is in issue here and what the Secretary of State was clearly dealing with was the possibility of very large numbers of these creatures being bred, reared and brought up for months, years or whatever it is until they reached full maturity and then slaughtered, which could mean substantial numbers being slaughtered during the course of any one year. As I say, in my judgment, that would not be within the definition of “agriculture” in section 290.” (emphasis added)

(2) *Salvatore Cumbo v Secretary of State for the Environment* [1992] JPL 366

The High Court, in upholding the decision of the planning Inspector to uphold an enforcement notice, held that cheese-making would be a process on a significant scale and would need planning permission as it did not fall within the statutory definition of agriculture in s.336 or as ancillary to agricultural use.

(3) *Hussain v Secretary of State for the Environment* [1972] 23 P&CR 330

In a planning case concerning whether the keeping and slaughtering of chickens was incidental to the use of a shop for retail trading, the Court held that the Secretary of State was correct in accepting the Inspector’s conclusion that slaughtering was “*a separate use ancillary to or in the nature of use as a slaughterhouse*” (at [332]). The key point here being that the use identified by the Court was as a slaughterhouse as its own separate category of use. There was no suggestion that the use in question amounted to agricultural use.

The decision in *Hussain* - that a slaughterhouse is itself a distinct use - is supported by the fact that a slaughterhouse is a defined place under the Slaughterhouses Act 1974. Relatedly, in *Fatstock Marketing Corpn Ltd v Morgan (Valuation Officer)* [1958] 1 All ER 646 a slaughterhouse was held to be “*adapting an article for sale*” within the relevant factories legislation so that the slaughterhouse was a factory for rating purposes. The Court of Appeal in *Gledhill v Liverpool Abattoir Utility Co Ltd* [1957] 3 All ER 117 also held a slaughterhouse to be a factory.

(4) *W. & J. B. Eastwood Ltd v Herrod (Valuation Officer)* [1971] A.C. 160

The House of Lords held, in relation to rating, that intensive broiler chicken sheds and buildings used for their killing, cleaning, freezing and packing for market were not used solely in connection with agricultural operations on the land and therefore were not agricultural buildings within the terms of the relevant statute. Relevantly, in reaching this conclusion support was expressed for comments made by Lord Sorn in a Scottish case:

"But I also agree with Lord Sorn when he said in Perth and Kinross Assessor v Scottish Milk Marketing Board, 1963 SC 95 that if a farmer set up a butcher's shop on his farm to sell his fat stock as meat no one would suggest that it should be derated, for the shop would be used for an independent purpose distinct from the farming operations." (per Lord Reid at [169D])

"Lord Sorn ... [in Perth & Kinross Assessor] ... instanced the case of the butcher's shop used for marketing the carcasses of animals bred or fed on the farm which he said, rightly in my view, would be an independent business." (per Lord Guest at [179C])

Whilst a different context, these statements made in the House of Lords are supportive of the proposition that a slaughterhouse is distinct in nature from the raising of animals on a farm.

(5) *Bee v Thompson* [2010] 2 WLR 1355

In a case concerning the interpretation of an easement which included the consideration of a user for "all purposes" vs "agricultural purposes", Etherton LJ relevantly stated (obiter) (at [50]) that he was "...doubtful whether the slaughterhouse would properly be considered to be agricultural use." Whilst this case arises in a different context, it is further support for the general proposition that a slaughterhouse does not fall within agricultural use.

In my submission, the reliance placed by the Applicant on the case of *Millington v Secretary of State for the Environment, Transport and the Regions* [1999] 3 PLR 118 is misplaced as:

- (1) *Millington* concerned the production of wine from grapes grown on land. The Court of Appeal did not decide whether this falls within agricultural use (or is incidental to it), but instead remitted this question to the Secretary of State after clarifying the relevant test (per Schiemann LJ at [136]) as follows:

"The proper approach to the root question in this case is, in the words of the judges in Wealden, Farley, Gill, Midlothian and Eastwood, to consider whether what the Millingtons were doing can, having regard to ordinary and reasonable practice, be: (i) regarded as ordinarily incidental to the growing of grapes for wine; (ii) included in the general term agriculture; (iii) ancillary to normal farming activities; (iv) reasonably necessary to make the product marketable or disposable to profit; or (v) whether it has come to the stage where the operations cannot reasonably be said to be consequential on the agricultural operations of producing the crop."

(2) *Millington* was therefore concerned with the farming of plants, specifically grapes, and outlined an approach to be applied in that context. In my submission, this cannot sensibly be read across to the entirely different context of the farming of animals, not least because of the significant welfare interests of the animals arising and the fact that they must be considered as sentient beings (as outlined above). Further, there is clearly no parallel from a planning perspective in terms of the potential impact on the neighbourhood of the construction of a slaughterhouse processing over 10,000 animals a year and the production of wine on a grape farm.

(3) In any event, applying the approach outlined in *Millington* in general terms to the proposed operation of a slaughterhouse on agricultural land use for raising animals delivers the following answers negate the grant of a lawful use certificate in this context:

- a. The slaughter of animals raised on a farm is not ordinarily incidental to the general activity of raising animals on agricultural land.
- b. As the authorities considered above demonstrate, a slaughterhouse is a use case of its own and cannot sensibly be considered to be an agricultural use.
- c. The operation of a slaughterhouse is not ancillary to normal farming activities.
- d. The operation of a slaughterhouse on the land is not reasonably necessary to make the animals marketable or disposable to profit.
- e. The operation of a slaughterhouse cannot reasonably be said to be consequential to the agricultural operation of raising farmed animals.

(4) The answers to the approach outlined in *Millington* given above in general terms are all the more obvious I would submit in this particular application where the Applicant proposes to slaughter over 10,000 animals a year.

Whilst noting the different jurisdiction and statutory context, the Council may also draw assistance from the decision of the Irish High Court in *The County Council of the County of Monaghan v Brendan Brogan and Patrick Brogan* [1987] IR 333. Here, the Respondents had been killing cows on their farm to feed greyhounds since the 1940s, but from 1983 onwards there had been a significant increase in the number of cattle being killed and they began to kill to provide food for human consumption. Keane J held that this amounted to a material change in the use of the land in the context of the proper planning and development of the area and granted an injunction to restrain the use of land as an abattoir. Keane J stated:

"The question accordingly resolves itself into one as to whether a change in use which involves the slaughtering of animals on a scale significantly greater than before, forming part of a commercial operation established for the first time on a particular farm, is "material" in the context of planning. Were such an operation to be established in an urban environment, there could not be the slightest doubt that it would be a material change in the use of the land. It is true that in the present case it has been established in a rural area but I am satisfied that it is nonetheless a material change in the use of the land in the context of the proper planning and development of the area." (at [339])

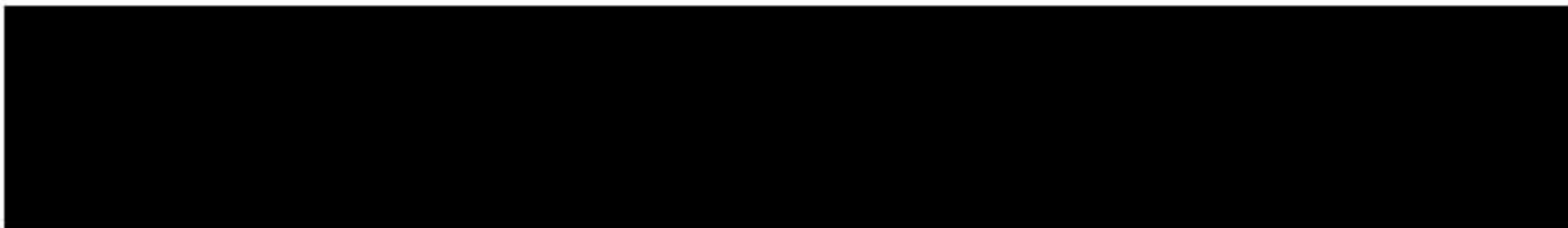
It is submitted that against the weight of the above authorities, less assistance can be found from the American decision of *Modern Continental Construction Co Inc vs Building Inspector of Natick* relied upon by the Applicant. In that case, the American Court declined to discuss the foreign decisions that had been cited to it as it found that “*they are readily distinguishable on the basis of their facts and the applicable statutory provisions*”. The same applies here in relation to the reliance placed on this decision by the Applicant.

In my submission, the Applicant’s reliance on the Delegated Report dated 23 February 2024 in relation to Stanedge Grange does not assist the Council in considering the application before it. The Delegated Report does not refer to all of the authorities mentioned above and, with due respect to the author, in my submission falls into error in its approach to the law. In any event, the factual circumstances are so far removed from those of the present application – that application concerned a maximum of 252 animals per year to be slaughtered / here the application concerns over 10,600 animals per year. This previous decision in a markedly different context does not, in any event therefore, assist the Council in considering the question of material change of use on this application. Even were the law to be that a small slaughterhouse operation may not amount to a material change of use from agricultural use (which it is submitted it is not), extrapolating the decision in relation to Stanedge Grange to the present application would, in any event, be irrational.

Accordingly, in my submission the Council is correct in its position that the proposed use by the Applicant of an agricultural building as a slaughterhouse does not, as a matter of law, fall within the present lawful use of the land. In any event, on the facts of this application, the intensity of the proposed use means that there would be a material change of use meaning that a full planning application is necessary here.

I enclose copies of the authorities referenced above to assist. Thank you in advance for your, and the Council’s, careful consideration of these matters.

Yours sincerely,



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