

# **APPEAL BY PJ BROWN (CIVIL ENGINEERING) LTD**

## **PROOF OF EVIDENCE OF**

**regarding the service of an enforcement notice by Mid Sussex District Council alleging that, Without Planning Permission:**

**3.1 The material change of use of the Land from agriculture to a Mixed Use of:**

**3.1.1 the importation, processing, storage and export of waste materials upon the Land;**

**3.1.2 the deposition of waste material upon the Land;**

**3.1.3 the storage of building materials upon the Land;**

**3.1.4 the storage of plant, machinery, and containers upon the Land;**

**3.2 Operational development comprising of the laying and construction of hardstanding upon the land**

**on Land East of Dan Tree Farm, London Road, Bolney, West Sussex, RH17 5QF**

**August 2024**

Appellant Ref:

J004451

PINS Ref:

APP/C3620/C/21/3269098

LPA Ref:

2020/0102/ENF

- 1.1 I am [REDACTED] of Bolney Park Farm, Broxmead Lane, Bolney RH17 5RJ.
- 1.2 I have owned the farm since 28 February 1998, and when my wife and I purchased the property, and the land, we identified it was in an extremely poor state of repair.
- 1.3 Over the last 25 years we have improved vastly all aspects of the property, and continue to do so, and a lot of the work could not have been done without the appellants help.
- 1.4 Today, our farm is now a small productive arable farm with a variety of crops planted and rotated from that time until the present day. I also rely upon the farmland to enhance and improve my equestrian interests, as well as helping others in the area with similar interests. I was also shortlisted for the Paris Olympics.
- 1.5 After we acquired the Farm, it was clear that the fields in particular were a major issue with barbed wire fencing collapse over the entire property, much dumping had occurred in parts and several large excavations were open. We were advised that this was due to the removal of sandstone used in the construction of the A23 trunk road in the past.
- 1.6 We contracted a firm and applied for all of the required planning and permits to renovate the land, as demonstrated through the Agricultural Prior Determination approval under 01/01232/AGDET. This involved a large amount of landfill followed by tree planting over the course of 4 years.
- 1.7 After the permission was granted, I instructed South east Tipping to undertake the works. They commenced in late-2001, and I'm not sure of the exact date. They progressed the works, contracting PJ Brown (the appellant) to import the necessary material throughout 2002. I attach at **Appendix 1** a copy of the licence which was signed between these parties.
- 1.8 In 2004, South East Tipping abruptly abandoned the Land Reclamation project for reasons that are still not known to me. I was, for want of a better term, left rather in the lurch, with a incomplete job.

- 1.9 Having met Peter Brown through South East Tipping, I approached him and his company to request to complete the works, in South East Tippings place. This he agreed to, and he did a super job of completing everything as required.
- 1.10 When Browns took over the works full and proper, they were able to start in late 2004, and they progressed them to practical completion by 2007. The final part of the operations involved was to leave the land to settle, which we did for just over two years, prior to commencing planting of crops.
- 1.11 I do confirm however that by 2007 the engineering works had finished in their entirety. Browns had fulfilled their end of the agreement, and all the final touches were left for me to arrange to be completed.
- 1.12 A number of the third parties to this appeal, involved with my land in one form or another, confirm the works finished in 2007. Marie Mepham in particular, looked after my children, and would walk the farm to keep tabs on my eldest son Daniel, when he was training for Polo. He gave up Polo in 2012, but up to this time she knew of the works going on. Since 2010 she has been under my employ to assist with the management of dressage events, as well as ad hoc other management duties. She has spent her lunchbreaks most days taking her dog for a walk around the farm.
- 1.13 Mark Wickens is another party, who brought his sheep to us when we moved from Forest Row. Mark began using our land for sheep grazing not long after we purchased the farm, and moved in, and did so through to 2011. He witnessed Browns operations as both a part of the land reclamation, and later as the yard is used now. In 2011 he stopped using the farm for grazing, as the economy had impacted him, and he was able to find a more cost effective solution. However, he has since returned to graze sheep on the land in recent years after the other site became unavailable to him.
- 1.14 Caroline Edgeley purchased the adjoining property (Park Farm) in 2010, and has since then regularly hacked her horses across the farm. She has been a firsthand witness to the improvements to the farm that have been achieved, whilst also witness to the continued operations of Brown's since she began hacking horses

shortly after purchasing and moving into to the adjoining farm. Claire Inglis is similarly aware of the operations as a result of hacking her horses over the land.

- 1.15 Greg Powell is a close friend of mine, who works as a professional stunt coordinator. He often needed a place to rehearse these stunts, and I have allowed him from time to time to use the farm. Notably, this occurred in 2006, but also from 2007 to 2010, and on occasion throughout the years. The whole farm has been used for these activities, for a temporary periods of time. My son Daniel is also a professional stunt performer, on the British Stunt Register with many film credits, and he had used the land for rehearsals until it was planted.
- 1.16 Graham Upton is a local agricultural contractor and farmer, and he has worked in tandem with us to plant and harvest the land over the years. He was aware that at one stage I was approached by Quadrilla for fracking, which I declined. Whenever Graham has been on the land, he has been aware of the works ongoing at the Browns compound as he affirms.
- 1.17 As is evidenced, the works finished in 2007, at it was at this time that Peter Brown asked if we would be prepared to lease a small area of the farm for his company, to which we agreed. This was a part of the site that they had been using for storage of equipment during the works, as a secondary compound where they could greet and direct their drivers through the land.
- 1.18 I confirm that Browns (the appellant) has been here since the agreement was finalised, and the first payment made. Originally the terms of our agreement was for the use of the yard solely as storage, but I later agreed that they could expand their activities, and operate in the same form and capacity as they are now, and have been since 2007. Beyond the original written contract, our agreement has continued in perpetuity on a verbal basis
- 1.19 Peter Brown explained to me that they wished to import, screen, and process inert construction waste, which they would then export from the site as recycled material. It was my understanding that was what they started doing in late 2007, and what they have been doing within the compound since. Since 2007 they have

continued to operate at the site, for these purposes as I understand it, and to my knowledge they have not ceased the operations at any stage.

- 1.20 In 2018 I requested Browns construct a bund, shown circled below in **Figure 1**, as a way to tidy the land up a bit, as my son had been using areas of the farm as a motocross track, which had caused soil to be amassed in areas. To my knowledge, the bund is constructed from material derived from the farm itself.



*Figure 1 Aerial depicting Bund requested by DR*

- 1.21 I am aware that Browns have also been involved in undertaking works for my neighbours over the years, and this involved the construction of the bund to the west. As with the land reclamation project, the yard they operate from formed no purpose connected with any of these activities, and was established wholly separate to Bolney Park Farm, and the adjoining properties. I understand that as with the land reclamation works, on each occasion they established separate temporary operational yards closer to the works being undertaken.
- 1.22 There is a previously constructed entrance, carried out by the Highways department, from the A23 which leads onto a roadway into the rear of the farm, and to the compound area which is adjacent in a small corner of the farm. This

access is also used by the neighbouring property, which has planning permission for a dwelling, although it has not been constructed.

- 1.23 My wife, and I, benefit from an unrestricted right of way of the adjoining land, and maintain the right at all times to pass and repass with or without motor vehicles over this land to the A23, and benefit from the use of the roadway for all agricultural uses, all equestrian uses, all business and commercial uses in connection with Bolney Park Farm, including haulage of goods in connection with those businesses, and all countryside sporting uses including, without limitation, hunting, shooting, and fishing.
- 1.24 I note that there have been highways objections raised, by the various representatives of the Councils, but at no time have these issues ever been raised to us directly, at least outside of the appeal. Their objections have seemed to evaporate when it is pointed out that it was them, as Highway Authority, that constructed the entrance in the first place, after a deal struck with Mr. David Wright to remove the intended bridge construction over the A23 and instead create a simple slip road entrance and exit. Undoubtedly, this was a much more cost effective and easier construction for Highways than the original plan, but regardless, that was the final outcome. This entrance is very similar to many on the southbound carriage way of the A23. Many thousands of vehicles have used the entrance since my tenure at Bolney Park Farm, and I am not aware of their having been any accidents or incidents directly resulting from the use of the access by any vehicles. We have never heard from the Police at any time about this entrance or its operation in 25 years.
- 1.25 I am aware now that Highways England do not pursue the issue in full any further, but the LPA do. I am not a highways expert, but the above does represent what I know to be true of the access and its history.
- 1.26 Since the beginning of the reclamation until the present time, a great many visits have been conducted by the authorities, including West Sussex County Council, Mid Sussex District Council and The Environment agency. The Environment Agency even conducted training visits for their staff during construction works and thereafter.

- 1.27 PJ Brown operating from this site is, and never has, been hidden or in any way covert. It operates in a professional fashion, causing no annoyance to nearby neighbours. I would note that I have highly strung international horses including one shortlisted for the Tokyo Olympiad. My neighbour has similarly trained international showjumpers with an Olympic longlisted horse, and as per her statement (Claire Inglis) has never experienced problems with noise or other disturbance. We exercise around the edge of our land and have never had any issues. Their presence, and advice over the years, has been of real value to Bolney Park Farm.
- 1.28 The current proceedings, and those previously instigated by the County, have been very worrying and frustrating. All in all, we have found huge inconsistencies in the approach to any issues concerning this site, but a real readiness to use any perceived infringements to attempt to build a picture of wrongdoing, particularly as far as PJ Brown is concerned, whilst advice or an amicable attempt to solve the alleged issues appears to have been non-existent.
- 1.29 My wife and I feel that concerns with the operations of Browns on the site should have been dealt with correctly many years ago, certainly when the compound was initiated back in 2007 or within a reasonable timeframe thereafter. It is curious that the authorities now seek to take action when it will result in the livelihoods of so many being placed at risk by these actions.
- 1.30 In conclusion, I affirm that Browns have been operating on the yard undertaking the importation, temporary deposit, reuse and recycling of waste material and the use of the land for storage purposes since our agreement in 2007. The hardstanding area on which the use has been undertaken has been in situ for just as long.
- 1.31 I can also confirm that if planning permission is granted, that Browns have my consent to undertake any necessary mitigation works required within my land. I am fully supportive of them continuing their operations from the yard.

2.0    **APPENDICES**

Appendix 1	Signed Licence
Appendix 2	Annotated Aerial showing Stunt rehearsal locations

# APPENDIX 1

Dated

2001

[REDACTED]

and

**P J BROWN trading as P J BROWN CIVIL ENGINEERING AND HAULAGE  
CONTRACTORS (2)**

**LICENCE  
for tipping soil at Bolney Park Farm**

**asb law**  
8 Ifield Road  
Crawley  
West Sussex RH11 7YY  
Tel: 01293 603 603  
Fax: 01293 603 666  
E-mail: [corporate.commercial@asb-law.com](mailto:corporate.commercial@asb-law.com)

THIS LICENCE is made the                      day of                      2001

BETWEEN:

(1)                      of                      (the  
"Licensor")

## 1 DEFINITIONS

1.1 In this Licence the following expressions shall have the meanings respectively assigned to them:

"Agent"                      James Phillips trading as South East Tipping of

"Commence-  
ment Date"                     

"Payment  
Date"                      the due date for monthly payment of the Royalty as set out in  
clause 3.2.

"Royalty"                      the amount payable by the Licensee in accordance with clauses  
3.2 and 3.3.

"Site"                      Bolney Park Farm                     

"Soil"                      inert soil.

"VAT"                      value added tax or any other tax of a similar nature which may  
be substituted therefor or levied in addition thereto.

## 2 GRANT OF LICENCE

2.1 In consideration of the payments below and of the covenants on the part of the Licensee contained in this Licence the Licensor grants to the Licensee from the Commencement Date and during the period of this Licence the following exclusive rights and liberties:

2.1.1 the exclusive Licence and authority for the Licensee to deposit Soil at  
the Site; and

2.1.2 the right to gain access to and from the Site with or without motor  
vehicles and plant for the purpose of exercising the right granted above

by the use of all access roads or ways now constructed or which may during the period of this Licence be constructed by or on behalf of the Licensor within the Site.

### **3 PAYMENTS**

- 3.1 On Completion of this Licence, the Licensee shall pay to the Licensor the sum of £40,000 (FORTY THOUSAND POUNDS) on account of the Royalties to be paid under clause 3.2 (the "Advance Payment").
- 3.2 The Licensee shall during the period of this Licence pay to the Licensor a Royalty of £35 per eight wheel lorry load of Soil deposited at the Site, such Royalty to be paid in arrears on the \_\_\_\_\_ day of each month and which shall be deducted from the Advance Payment.
- 3.3 Any Royalty to be paid in relation to other sizes of vehicles shall be agreed in writing between the parties prior to and subject to such vehicles being granted access under clause 2 of this Licence.
- 3.4 The Licensor shall be responsible for counting the number of loads of Soil deposited by the Licensee at the Site and shall within 2 working days from the end of each Payment Date provide the Licensee with a statement setting out the number of loads of Soil deposited by the Licensee for the relevant month.
- 3.5 An assessment of the volume deposited at the Site by the Licensee shall be jointly undertaken by the Licensor and Licensee 8 weeks from the Commencement Date with such volume being agreed in writing and further assessments shall take place as agreed between the parties.
- 3.6 In the event of a dispute relating to any Royalty payment, any assessment under clause 3.5 or Refund (as defined in clause 3.9) the parties shall settle such dispute in writing and shall attempt to reach such settlement:
- 3.6.1 in relation to any Royalty payment within 14 days of the relevant statement being issued (pursuant to clause 3.4);
  - 3.6.2 in the case of any assessment pursuant to clause 3.5 within 14 days of the assessment; and
  - 3.6.3 in the case of a Refund within 14 days of the written notice being given by the Licensee (pursuant to clause 3.9);

failing which an independent member of the Royal Institute of Chartered Surveyors (the "Institute") will be appointed on application by either party by the President of the Institute for the purposes of determining the quantity of Soil deposited acting as expert and not arbitrator and whose decision shall (save in the case of manifest error) be final and binding on the parties and the cost of appointing such expert shall be borne by the parties equally.

- 3.7 The Royalty payable for any given month shall be adjusted (if applicable) to take into account any overpayment or underpayment by the Licensee for the previous month.
- 3.8 The Royalty shall be deemed to be exclusive of VAT.
- 3.9 In the event that the Licensee decides to cease depositing Soil at the Site for any reason whatsoever (including any event under clause 7), the Licensee shall give to the Licenser written notice of the same and the Licenser shall upon receipt of such notice immediately pay to the Licensee the balance of the Advance Payment (the "Refund")(if any).
- 3.10 If the Licenser fails to immediately pay the Refund to the Licensee then the amount of the Refund due shall bear interest from the date on which the Licenser receives the written notice of the Licenser (given pursuant to clause 3.9) until payment is made in full, both before and after any judgement, at \_\_\_\_\_ per cent per annum over \_\_\_\_\_ Bank Plc base rate from time to time.

#### **4 LICENSOR'S AGENT**

- 4.1 The Licenser hereby confirms and warrants that:
- 4.1.1 he has appointed the Agent as his authorised agent for the performance of his obligations under this Agreement;
  - 4.1.2 the Agent is fully authorised on behalf of the Licenser to accept and acknowledge receipt of all monies due to the Licenser under this Agreement and such acknowledgement of any sum shall be deemed sufficient to discharge the Licensee's obligation to pay the same;
  - 4.1.3 the Agent is fully authorised on behalf of the Licenser to accept and acknowledge receipt of all notices given to the Licenser by the Licensee under this Agreement; and
  - 4.1.4 he agrees to ratify the acts of the Agent.
- 4.2 In the event that the Agent does not perform the obligations of the Licenser as set out in this Agreement the Licenser hereby undertakes to perform the same.

#### **5 LICENSEE'S COVENANTS**

- 5.1 The Licensee agrees to provide to the Licenser (at no expense to the Licenser) the following:
- 5.1.1 A wheelspinner with a portable water dip and concrete base;
  - 5.1.2 A roadsweeper as and when required;
  - 5.1.3 A D6H machine or similar machine; and
  - 5.1.4 Road making materials as agreed between the parties.
- 5.2 The Licensee further agrees to perform (at no expense to the Licenser) the following:

- 5.2.1 Push over and spread out evenly loads of Soil deposited by South East Tipping; and
- 5.2.2 Maintain the internal road at the Site.

## **6 LICENSOR'S COVENANTS**

- 6.1 The Licensor hereby covenants with the Licensee that it will in connection with its use of the Site for whatever purpose cause as little interference or interruption possible to the operations of the Licensee in or upon the Site.
- 6.2 For the avoidance of doubt the Licensor hereby covenants that the use of the Site for the depositing of Soil or otherwise shall only be granted to the Licensor and the Agent and the Licensor further covenants that he will not during the period of this Agreement enter into any other agreements with third parties relating to the same.

## **7 FORCE MAJEURE**

- 7.1 Notwithstanding any other provisions of this Licence neither party shall be under any liability to the other to the extent that it may be hindered or prevented from performing any of its obligations by reason of any circumstances whatever beyond the control of the party affected including but not limited to the following circumstances namely acts of God war labour disputes fire riot explosion act of national or local authority (other than where the imposition thereof is due to the act neglect or default of the party affected).

## **8 NOTICES**

- 8.1 Any notice or other information required to be given by any of the parties under this Licence may be given by hand or sent by first class post, facsimile transmission or comparable means of communications, to the address of the addressee as set out in this Licence (and in the case of notices addressed to the Licensor, this includes the address of the Agent) or to such other address as the addressee may from time to time have notified for the purpose of this Clause. Communications sent by post shall be deemed to have been received forty-eight hours after posting. Communications sent by facsimile may be made between 9.00 am and 4.00 pm on any business day and shall be deemed to be received 1 hour after despatch provided that any notice received outside such hours shall be deemed to be served on the next succeeding business day. In proving service by post it shall only be necessary to prove that a communication sent was contained in an envelope which was duly and correctly addressed, stamped and posted in accordance with this Clause.

IN WITNESS whereof this Deed has been executed by the Licensor and the Licensee  
the day and year first above written.

SIGNED AS A DEED by the said )

[REDACTED]

in the presence of: )

.....

.....  
Signature of Witness

Name:

Address:

Occupation:

SIGNED AS A DEED by the said )

[REDACTED]N

in the presence of: )

.....

.....  
Signature of Witness

Name:

Address:

Occupation: