

Andrew Clarke

From: Andrew Clarke
Sent: 24 July 2024 16:25
To: 'Clements, Corrina'
Cc: 'admin@wspace.co.uk'; 'Peter Brownjohn'; 'Andrew Sierakowski'
Subject: RE: *URGENT* Land east of Dan Tree Farm, London Road, Bolney (Our Reference: APP/D3830/C/23/3319435)
Attachments: BPF instructions redacted.pdf

Dear Corrina,

Further to my email below please find the Council's response to the pre-inquiry note and requested documents attached. Please accept our apologies for the delay in providing this.

With respect to the particular matters raised and queries asked.

The Council has clarified 'the laying and construction of hardstanding' applies only to the area outlined in blue on the plan. Should this clarification be confirmed through a correction to the wording of the alleged breach? - The LPA is content that the Notice satisfactorily outlines the alleged breach of planning control and in relation to allegation 3.2 and that the location of hardstanding is defined in requirement 5.10, however, should the Inspector be minded to amend allegation 3.2 to include reference to the land outlined in blue on the Notice, then the LPA believes this amendment could be made without prejudice to either party.

Second bite provision – The LPA maintains that the 'second bite' provision applies in this instance. A copy of the signed authorisation report instructing the issue of the Enforcement Notice is attached (please note this is an internal Council document and therefore some legally privileged elements have been redacted, however, any redacted elements make no reference to the second bite provision or consideration of any matter to be considered under the ground (b) appeal). The authorisation report expressly says that the second-bite provisions apply to this new notice and that was the intention of the authority. The 2023 Notice seeks solely to address the change in authorised body and LPA issuing the Notice as the development was assessed (and noted to be by the Inspector in the aborted inquiry in March 2021) to be a mixed waste and storage use, rather than a primary waste use with ancillary storage (which was the subject of the original notice and would otherwise have been a matter which would fall under jurisdiction of West Sussex County Council as the authority with responsibility for waste matters). The new notice attacks the same development as the original notice, albeit the development is described in different ways (i.e. mixed waste and storage, rather than primary waste with ancillary storage). In respect of the red line of the Notice this has been amended to reflect the full extent of the planning unit and the land upon which the authorised development is taking place, but also to reflect the boundaries of the land ownership in respect of the western boundary of the site. The result is the Notice subject to the appeal incorporates an area of approximately 400m² additional land than the 2021 Notice (noting the total area covered by the red line equates to 11,500m²). The application of the second-bite provisions can be addressed by legal submissions if necessary. To be clear, even if, contrary to the LPA's primary position, the second-bite provisions do not apply, the LPA is still of the view that the activity has not gained immunity from enforcement action.

Highways – The LPA has received further advice from National Highways (as the LHA) following their comments of 12th February 2024. Whilst it remains the case no application for a 'departure from standards' has been submitted to, received or determined by National Highways and that the access does not conform to prevailing design standards and that the appellant's Transport Statement does not satisfy the requirement for a Transport Assessment as set out in Government Guidance, and para 117 of the National Planning Policy Framework, it is considered that potentially the impact of the unauthorised development can be mitigated and addressed through the imposition of planning conditions. It is therefore intended that the LPA (in conjunction with National Highways) approach the appellant to agree a Statement of Common Ground to address this matter in isolation. It is therefore not the intention of the LPA to present evidence to the inquiry on matters of highway safety or in consideration of the ground (a) appeal in respect of reason 4.5 of the issue of the Enforcement Notice.

Witnesses – On each ground the LPA would be seeking to call:

Ground (a) - Andrew Clarke (Mid Sussex District Council – 30 mins); Andrew Sierakowski (West Sussex County Council – 30 mins); David Ellis (WSP – 30 mins)

Ground (b) - Andrew Clarke (Mid Sussex District Council – 30 mins)

Ground (d) - Andrew Sierakowski (West Sussex County Council – 60 mins)

Ground (f) - Andrew Clarke (Mid Sussex District Council – 15 mins)

Ground (g) - Andrew Clarke (Mid Sussex District Council – 15 mins)

Core Documents – As previously listed with the additional of the WSCC Inert Waste Monitoring Report (2023)

The LPA will seek to address and finalise the statement of common ground(s) in the next 7 days.

Kind regards

Andy Clarke BSc (Econ), PGDip

Senior Planning Officer

Planning Investigation and Enforcement

Mid Sussex District Council, Oaklands Road

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Working together for a better Mid Sussex



From: planningappeals

Sent: Wednesday, July 24, 2024 12:02 PM

To: Clements, Corrina <corrina.clements@planninginspectorate.gov.uk>

Cc: admin@wspa.co.uk; Peter Brownjohn <peter.brownjohn@wspa.co.uk>; Andrew Sierakowski <Andrew.Sierakowski@westsussex.gov.uk>

Subject: RE: *URGENT* Land east of Dan Tree Farm, London Road, Bolney (Our Reference: APP/D3830/C/23/3319435)

Dear Ms Clements,

Thanks for the email and apologies for the delay in our reply. The Council has been liaising with National Highways on the question around consideration of highway matters and this has taken longer than expected. We do now have an updated position and this will be communicated to you in a full response to the pre-inquiry note within the next 24 hours.

Kind regards

Andy Clarke BSc (Econ), PGDip
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From: Clements, Corrina <corrina.clements@planninginspectorate.gov.uk>
Sent: Wednesday, July 24, 2024 9:21 AM
To: planningappeals@midsussex.gov.uk
Cc: admin@wspace.co.uk; Peter Brownjohn <peter.brownjohn@wspace.co.uk>
Subject: *URGENT* Land east of Dan Tree Farm, London Road, Bolney (Our Reference: APP/D3830/C/23/3319435)

I am writing with regard to the inspectors note 2, I have not received a response from the LPA.

The failure to clarify the LPA's position, in particular regarding the second bite provision and their case on highway's grounds, is not helpful in preparing for the inquiry.

Please can you provide your response as soon as possible.

Regards

Corrina Clements

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