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The Secretary of State for Levelling Up, Housing and Communities
c/o The Planning Inspectorate
Room 3 O/P
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

30th November 2022

LH/PCK – 17-050
BY EMAIL

Dear Sir/Madam,

**ENFORCEMENT APPEAL: LAND AT LOWER HOCKENDEN FARM, HOCKENDEN LANE,
SWANLEY, BR8 7QH**

Iceni Projects Limited ('Iceni') has been instructed by Bournewood Sand & Gravel Limited ('the Appellant') to lodge an appeal against an Enforcement Notice served by Bromley Borough Council on Land at Lower Hockenden Lane, Swanley, BR8 7QH ('the Site'). The location of the Site is shown in the accompanying location plan.

The Enforcement Notice (ref: 21/00270), dated 27th October 2022, stated the matters which appear to constitute a breach of planning control as:

Without planning permission, the material change of use of the land from agriculture to the deposit of waste.

Existing Use of the Site

The Council's Enforcement Notice states that the alleged breach of Planning Control has taken place within the past ten years. Over the past ten years, and many years before, the Site has formed part of Lower Hockenden Farm and has been in agricultural use.

Anti-Social Behaviour

The Site has been subject to on-going lawless and anti-social behaviour which has degraded the land. This has included the persistent riding of motorbikes across the Site. These matters have been reported to the local Police force on multiple occasions and the Appellant has been working with the Council's Enforcement Team, at their own expense, to prevent further lawlessness across the Site. This has included the stationing of concrete blockades and the provision of dirt bunds within the Site to prevent riders from being able to access and/or ride around the Site.

Unfortunately, the problem persists, and the Appellant is keen to continue working positively and proactively with the Council and the local Police to resolve the issue.

Agriculture

The subject site is in agricultural use. The farmer on the land is seeking to improve the quality of the soil. This has required the movement of topsoil across the Site. In addition, the farmer has an exemption from the Environment Agency in order to spread mulch across the land to conserve soil moisture, moderate soil temperature and control growth of weeds. The mulch is simply wood cuts from the site itself and does not involve any importation of material onto the site. All of the activities on this site relate to agriculture use.

Appeal on Ground (b)

The Appellant wishes to appeal the Enforcement Notice on Ground (b) – that the alleged breach of planning control has not occurred.

Waste Development

The Council allege that the Site has been used for the depositing of waste but have provided no further explanation or evidence to support this claim. Therefore, the Appellant has been required to make some assumptions as to what this could be regarding.

European Directive 2008/98/EC provides a definition of 'Waste' as *any substance or object which the holder discards or intends or is required to discard*.

Therefore, it must be assumed that they believe any operations that have taken place form a type of 'waste development'.

Government Guidance published in relation to the Planning System some further detail on what can constitute 'waste development'¹, the list provided within the guidance is re-provided below, for reference.

- *metal recycling sites*
- *energy from waste incineration and other waste incineration*
- *landfill and land raising sites (such as soils to re-profile golf courses)*
- *landfill gas generation plant*
- *pyrolysis/gasification*
- *material recovery/recycling facilities*
- *combined mechanical, biological and/or thermal treatment*
- *in-vessel composting*
- *open windrow composting*
- *anaerobic digestion*
- *household civic amenity sites*
- *transfer stations*
- *wastewater management*
- *dredging tips*
- *storage of waste*
- *recycling facilities for construction, demolition, and excavation waste.*

None of the above operations have taken place or are currently taking place within the Site. A matter which will be evident during the Inspector's Site Visit.

¹ Waste Guidance, Paragraph: 002 Reference ID: 28-002-20141016

Summary and Conclusion

Bromley Council have served an enforcement notice on the Appellant alleging that there has been a change of use of the land from agricultural to the depositing of waste.

As has been explained in this letter, the only operations which have taken place within the Site are agricultural in nature or are in response to anti-social behaviour, which the Appellant is working positively with the Council and local Police to resolve.

No 'development' or 'waste development' has occurred on the Site.

Yours sincerely,

A handwritten signature in black ink that reads "P Chandler-King". The signature is written in a cursive, flowing style.

Paul Chandler-King
Planner