

Town and Country Planning Act 1990

Appeals by Mr John Croke, Mr Ryann Croke

Site Address: Land adjacent to Darcy's Place, Little Broomfield, Church Lane, Wormley, EN10 7QF

The Appellant's comments on the submissions made by the LPA, Rule 6 Party and neighbouring resident regarding the above appeals are as follows:

Letter from John Fasal, Bury Farm (26th April 2026)

Mr Fasal states that although the land "might" have been covered over with layers of topsoil he questions the future consequences. This concern confirms the need for thorough restoration of the site, as was taking place prior to the service of the Enforcement Notice. Mr Fasal advises he has been resident since 1986 but does not confirm the historic restoration, despite later making comments regarding heavy vehicle movements in Church Lane. It is contended that had the restoration been carried out in the 1980s and 1990s as suggested by the LPA, this resident would have recollection of the significant vehicle movements and tipping necessary to import a minimum of 12 inches of soil across the site.

As a point of confirmation, the referenced "Muckers" vehicles referred to later in the later are unrelated to the appeal site. Local company "HH Muckers" is registered at Cheshunt Park Farm, EN7 6PZ.

Rule 6 (Asif Choudhery on behalf of Serenity Welfare) Statement of Case

The background points and issues relating to the impacts of the operations on Serenity Welfare are noted and sympathised with. However, the Appellant was seeking to restore this longstanding issue and the matter for determination within this appeal is whether those activities were lawful.

At para. 4.2 the Statement incorrectly asserts there is no extant planning permission for the works – however, the works are lawfully undertaken in implementation of the extant restoration obligations imposed by the 1980 Enforcement Notice

At para. 4.3 the statement "Any historic restoration cannot be relied upon to justify unlimited or intensified modern activity nor repeated importation of

material decades later” is disagreed with, where those works align with the requirements of the extant Enforcement Notice.

The point made at para 4.4 is correct – the issue before the Inspector is not whether restoration is desirable in principle, but whether the activities are lawful. The Appellant asserts that the activities are lawfully undertaken in implementation of the extant restoration obligations imposed by the 1980 Enforcement Notice.

At para. 6.3 the statement refers to “prolonged non-compliance”. The Appellant is undertaking works to comply with the extant Enforcement Notice. There is criticism that the Appellant did not properly pursue planning permission -this is because the works are lawfully undertaken in implementation of the extant restoration obligations imposed by the 1980 Enforcement Notice– there is no requirement for further permission.

LPA Statement of Case

Para 2.7 – the inclusion of the site on the Minerals register is considered a further planning constraint to those listed.

Para. 4.5 -The Appellant disagrees that the development is not minerals development – the works are restoration required under the minerals planning permission and the subject of an extant Enforcement Notice.

Para. 5.13 – The suggestion that the requirement to restore expired in 1979 PRIOR to the issuing of the 1980 Enforcement notice requiring compliance with condition 5 is illogical. The County Council continued to seek compliance with the restoration and this was upheld by the Planning Inspector, with the obligations remaining extant today via the Enforcement Notice.

Para. 5.14 – The Appellant disagrees that the inclusion of the words “to the satisfaction of the Local Planning Authority” override the explicit requirements for covering with a surface layer of soil not less than 12 inches deep”.

Para. 5.17- this is agreed with. The Enforcement Notice superseded condition 6 which contained an expiration date for the 1949 planning permission.

Para. 5.20 - the Appellant disagrees with the implication taken by the LPA. There is no suggestion in the memorandum that the Enforcement Notice has

been complied with, only that the case for prosecution was considered weak. It should further be noted that whether or not an LPA's position was weak to demonstrate expediency and bring forward a successful prosecution is a separate issue to whether or not the requirement of the Notice remained lawful capable of implementation – which is the key matter for determination in this appeal.

Para. 5.23 - the Appellant refer to its previous comments regarding the concerns for the accuracy of this note. In particular regarding the adjacent land (not within the Appellant's ownership and the adjacent land to the North, which was in equine use.

Para. 5.24 – It is unclear why the LPA does not accept that the site is dormant in regard to Schedule 13. The HCC Notice (Appendix 12 to the Appellant's Statement of Case) expressly references Schedule 13.

Para. 5.25 - The letter from HCC dated 17th March 2026 directly contradicts the inclusion of the site on their register in 1996. Given the changed position and timing of this letter after the significance of the status of the land had been raised through this appeal process, there is concern that this letter is contrived to retrospectively remove the lawful status of the works which are the subject of this appeal – an action which may be considered unreasonable behaviour.

Para. 5.31 – the documents previously disclosed through Freedom of Information Requests and appended to the Appellant's Statement of Case indicate that there was no such certainty that the Notice was complied with in 1996. To the contrary the only evidence relates to a map of a larger area; incorrect reference to horses grazing on the land; and continued reference to protruding metal.

Para. 5.39 – The Appellant is aware that historically the site appeared green. The LPA's assertion that this indicates that Condition 5 was complied with is incorrect – even hard surfaces grow over through passage of time. In recent recollection the Appellant can confirm that with two weeks of the Stop Notice having been served, mounds within the site had started to green over. That does not mean that the land contains a minimum of 12 inches of top soil, or that it is suitable for cultivation.

Para. 5.40 - The reference to the ground being level does not confirm that restoration was complete, as set out in the attached site note (10/08/82) in

which the Council confirmed that the site needed to be domed (higher than level) so that “once settlement has occurred, the final gradients will become easily drained, and suitable for agriculture”. That did not happen. The note continues that “the entire site, once level, will be covered with 18” of clay material prior to the replacement of topsoil” The note also noted the tree belts would be on a slightly lower level than the finished levels.

Para 5.41 – This undated report (without a named officer/job title) has been prepared by the Borough Council, not the County and the relevant LPA for enforcement activity. It is suggested in evidence that it was prepared somewhere between 1984 and 1986. After this date the County Council continued to pursue the Landowner for compliance with the condition, and HCC officer notes (shared in appendices accompanying the Appellant’s Statement of Case) noting the continued presence of protruding metal in 1993 and 1996, which contradict this assertion.

Para. 5.43 – The 2021 Enforcement Notice requires the restoration of the land - this requires the importation of soil and then seeding. This action is presented by the subsequent Enforcement Notice which is the subject of this appeal.

Para. 5.45 -whilst it is agreed that the Borough Council would be the relevant LPA for a breach of planning control involving operational development, they cannot disregard that those works are lawfully undertaken in implementation of the extant restoration obligations imposed by the 1980 Enforcement Notice served by the County Council.

Para 5.46 – the excluded land contains the imported material. The material which is stored within mounds across the rest of the site is material that has been scraped from the site in preparation for the removal of debris and rubble and its re-application to restore the land, It is illogical that the LPA accept the importation of additional material, yet seek the removal of pre-existing material – particularly as the intention is to continue the restoration which the LPA agrees is “acceptable” on the excluded land.

Para 6.4 – the plant is largely required to complete the restoration works. However, the area of land is large and open to the public (via the public right of way) and requires ongoing maintenance post restoration to ensure public safety as well as in the interest of good stewardship.

Para. 6.7 – Officers from the Borough and County Councils have visited site and seen the condition of the land. It is therefore surprising that they do not agree that there is a continued need to clean the material that has been lifted. It is suggested that this is a matter that should be considered during the Inspector’s site visit when they will also have the benefit of seeing the condition of the land.

Para 6.11 – As within the previous appeal, the Appellant (Mr John Croke) also has the benefit of first-hand experience of the land over those four decades and accordingly will be able to give evidence under oath as to the works that were (and were not) undertaken over that time.

Para. 7.9 – The dormant status of the land is clearly a point of disagreement between parties and one which will require further consideration during the Inquiry.