

**Proof of Evidence  
of  
John William Croke**

**APP/W1905/C/26/3378144 and APP/W1905/C/26/3378145**

**against**

**an enforcement notice alleging, without planning  
permission, the increase of ground levels through the  
importation and processing of inert waste.**

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

## **1.0 Background and declaration**

- 1.1 My name is John William Croke. I am the Appellant in this appeal and I am giving evidence in a personal capacity, using my own firsthand knowledge of the site. I am not an expert in Planning, but I have appointed a Planning Expert who will provide additional evidence. My proof should be read together with my Appeal Case Statement, which forms part of my evidence in this Appeal.
  
- 1.2 I have been familiar with the site since 1981 when my Dad was given a license by the former landowner CG Edwards to manage the filling of the site. The extracted gravel pit was filled with waste material. I was aged around 15 at the time and regularly worked on the land with my Dad. In 1983 my Dad purchased the site. Following his passing, I inherited the land in 2015. Subsequently, on 29/11/2023, I split the land into two plots of ownership I retained the eastern parcel and my son, Ryann Croke (who is the other appellant in this appeal), took ownership of the western parcel.
  
- 1.3 The evidence which I have prepared and provide for the Appeal in this proof of evidence is true and has been prepared, and is given, in accordance with my best knowledge and without the use of Artificial Intelligence (AI). I confirm that the opinions expressed are my true opinions.

## **2.0 Scope of evidence**

2.1 My evidence is limited to my own first hand knowledge of the site which I have obtained both during my ownership and prior to that, whilst working on the land with my Dad since 1981.

2.1 I have direct knowledge of the infilling of the gravel pit and limited restoration activities which followed.

2.2 I am not an expert in Planning (and do not claim to be), but I have appointed a Planning Expert who will provide additional evidence. I can explain facts and the activities which have taken place within the site, but for technical planning and legal questions, I will defer to my appointed representatives.

### **3.0 Site History**

3.1 After my Dad took on the site we managed the infilling of the gravel pit. To show the extent of the works I provide below an image of the site dated 1971, which showed the excavation across the whole parcel:



3.2 Historically, I was the only worker on the land apart from my Dad. From the age of 15-18 I was the machine driver and I used to write out the tickets for the lorries who came on and dropping waste. For the loads of waste, we charged £6.00 per skip. The site was used as a free tip for the materials that we needed to weigh down the waste. This meant that we did not charge for the other materials that were brought on. It was very different in those days there weren't copious amounts of muck around that people would pay to get rid of. At the same time we were running out site as a free tip there were similar sites at Cock Lane and Grubbys in Hertford so there was a lot of competition for the muck that was needed to weight down the waste material. No topsoil restoration was carried out as part of the original filling works. People did not bring topsoil to sites such as this because topsoil had a value in its own right. Material was brought to the site for disposal and the objective was to fill the excavation. Whilst some cover material was

used, there was never any exercise, to my knowledge, to place a consistent layer of topsoil across the site or to undertake the type of restoration and aftercare that would ordinarily be associated with agricultural restoration.

- 3.3 The depth of the free-tipped muck wasn't measured. It was just ordered by my Dad to make sure that there was enough material on the site to cover the waste. The whole operation to fill the pit in with waste and then the free tip took place between 1981 and 1984, with the free tip being about the last 6 months of that time. All ground works were undertaken by myself only, using a D5 dozer.
- 3.4 99% of the material brought on to the land was skip waste, tipped across the whole site. The skips mostly contained builders waste (hardcore, plasterboard etc) however there were also odd bits of domestic waste that had been added to skips before they were tipped.
- 3.5 Initially trucks entered the site on a hard surfaced road to a tip point and then dropped waste, the pit was about 20m deep. We then changed the tipping route and ran the road down into the bottom of the pit, where we started tipping in the centre and worked our way round in a spiral to fill it back up. Once the pit was filled, we continued to drop waste across the remainder of the site because it was in a bowl shape. It was tipped to a higher level than today because it has sunk over the years.
- 3.6 I have seen the Council officer's note dated March 1996 which records that the site was "fully restored". I accept that, by that time, the site would have appeared green and overgrown from a visual inspection. However, I did not

regard the site as restored then and I do not regard it as having been restored now. I knew from my own involvement in the filling operation that no comprehensive topsoil restoration had been undertaken. The site had simply become vegetated over time. In my view there is an important distinction between a site appearing green and a site having been restored in accordance with the requirements of the planning permission and enforcement notice. There were never any horses on the site, apart from once in around 2015 when someone trespassed onto the site and abandoned a horse tethered to a stake. When I arrived on site it was dead and its legs were tangled in the tether. In my opinion the site wasn't and isn't suitable for livestock, it would be dangerous because of the uneven surface and protruding waste and cause injury. I have had people ask to rent it over the years and they have looked at it and said it also isn't suitable as covered in ragwort.

- 3.7 The reason I embarked upon the recent works was because I had come to the conclusion, based on my knowledge of the site's history and what I observed on the ground, that the site had never been properly restored. I can only guess that the reason why my Dad didn't restore the land was because of the cost. I myself only became aware of the continuing issue after my previous planning applications and enforcement action. The works were intended to address that problem. They were not undertaken because I wished to establish a waste operation or create a new commercial use of the land. Instead, I saw the opportunity to restore the site, resolve the issues with the land and create a permanent memorial garden for my son Darcy.

## **4.0 Recent activities on site**

- 4.1 As set out in the Planning History section of my Appeal Case Statement, there have been extensive Planning Enforcement issues over the years, both when the site was owned by my Dad and since I took ownership. Most recently, in 2024, I was unsuccessful in appeals seeking to establish the lawful use of the land for storage and an associated Planning Enforcement Notice.
- 4.2 Having lost the benefit of the use of the land for storage purposes which it was agreed had taken place since the 1980s, and in the context of the recently introduced Grey Belt, I decided to look at alternative uses of the land. In doing so, I discovered that it was registered as a dormant minerals site and that there was an enforcement notice on the land which required it to be properly restored, being the limited free tipping that I had overseen in the 1980s. I began scraping back the surface material across parts of the site. This enabled me, for the first time since the original infilling works in the early 1980s, to see the condition of the underlying material.
- 4.3 What I found was consistent with my long-held understanding that the former gravel pit had been filled, but never properly restored. In a number of locations, only a relatively shallow layer of soil existed above the underlying waste. In some places, I encountered rubbish and waste material within a few inches of the surface. The depth of soil cover varied considerably across the site and was not consistent with what I would expect to find on properly restored agricultural land.

- 4.4 As material was stripped back, I encountered buried waste, rubble and other made ground associated with the historic filling operations. This did not come as a surprise to me because I had personally participated in those filling operations in the early 1980s and knew the nature of the materials that had been deposited. However, the extent to which such material remained close to the surface reinforced my view that the site had never undergone a comprehensive restoration process.
- 4.5 The works also revealed variations in levels across the site and areas where settlement had clearly occurred over time. That was consistent with my recollection that the site had been filled rather than properly restored. When the original filling operations were undertaken, the objective was simply to eliminate the remaining void. Looking back, I would describe those works as infilling rather than restoration.
- 4.6 I consulted Darren Evers (a waste expert with a BSc (Hons) in Waste Management and 25 years' experience) to seek advice on how to restore. His advice is in **Appendix 17** of my Appeal Case Statement in which he states *"As you can see from the RES1240B we have tried to keep the depths to an absolute minimum but sufficient to obtain the required falls for beneficial reuse, drainage, maintenance etc and allowance for the compaction of material during placement. The final surface can then be stone picked, and seeded with a DOT Verge mix or similar"*. Darren advised me that the site needed to be fully cleared as it couldn't be restored with shrubs on the site. I also knew I had to keep the TPO trees. I put a perimeter fence up. After the site clearance I instructed topographical survey. Darren produced a restoration plan and suggested Cl'aire as being the appropriate route to

bring material onto site. I pursued the Cl'aire, but was unable to complete it as the Council advised them that planning permission was needed and that halted the process.

4.7 I did not agree that planning permission was needed because of the requirement in the enforcement notice which was left on the land and which I wanted to comply with. As the Cl'aire route was no longer available, I imported material (sub-soil) using Environment Agency permits – which permitted up to 1,000 tonnes per land title. This material is reference in the Dockets provided as **Appendix 3** to my Addendum Appeal Statement.

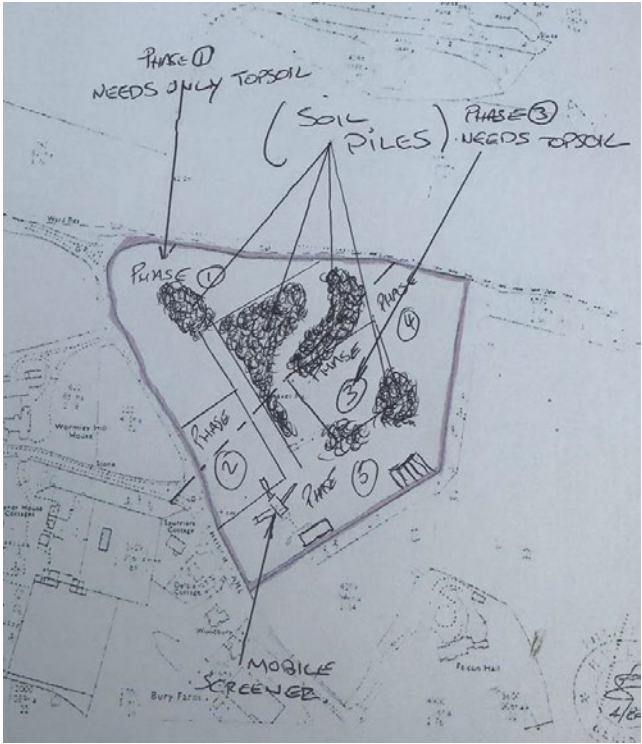
4.8 I decided to phase the site and started off in the corner that is hatched in the Appeal Enforcement Notice. I scraped the surface materials and piled into mounds within the site. The depth of the surface material a varied across the site. In some places, there was as little as three inches before encountering rubbish but in other locations it was deeper. I bought the Chieftain at a cost of £25k. This was to screen the material that had been scraped off. The soil that I imported under the EA's permits was deposited straight into the hatched area. I then scraped material across the site, which is currently stored in mounds, it was intended to screen that material using the Chieftain and re-lay the clean earth, but that was prevented by the Stop Notice.

4.9 The only waste material that has been separated on site is that which was pre-existing within the site and has been cleaned as part of the restoration. The intention was to layer it so that the muck and earth sat above the waste. I was following DEFRA guidance in doing this. To deal with this

material, I purchased a machine, a screener, to separate the material from the waste and muck.

4.10 The screener separates material into three outputs – large, small and fine/soil. The larger and bulkier items of waste I would need to pay haulage to move off the site. The smaller and fine items would be laid on site and then I would pay for imported topsoil to finish the site. Additionally, one of the heaps on the site is composting scrub that has been stored to mix in with the imported soil as a superfood.

4.11 I have produced the below plan which more clearly explains how I was restoring the land:



**5.0 Other Considerations**

- 5.1 I am aware that we are responsible for the public footpath running through the site. Since I had to stop works due to the Stop Notice Broxbourne Council has written to me telling me that I need to carry out works to make the footpath safe – but I can't do that because of the Stop Notice. I feel that this is another problem I have been dragged into while just trying to restore the site and comply with the Enforcement Notice.
- 5.2 I am aware that there is an overdue requirement on my (eastern) parcel of land from the more recent Enforcement Notice which also required me to restore the ground – I also can't comply with that currently because the new Enforcement Notice (also issued by Broxbourne Council) contradicts it and prevents the works that the other notice requires and it places a stop on all of the restorative groundworks that were taking place.
- 5.3 I do not believe that the planning condition requiring the restoration requires any agreement from the Council. Nevertheless, I sought to engage Hertfordshire County Council to agree a Review of Minerals Permission on the site to agree the conditions for the restoration as I understand that this is process that was brought in by the Government to restore old minerals sites. In the absence of any engagement from the Council. I have taken professional advice and followed DEFRA guidance to make sure that the works on site are correct.
- 5.4 It was clear to me from the Site Notice which was displayed on the land and was submitted as part of our evidence and also from my specific enquiries to Hertfordshire County Council in which they confirmed that the site was Dormant. I was later advised in December 2025 that the Council no longer

considered it was Dormant. I am unclear what has changed and when they have changed the status of the land. As the landowner, I received no formal communication advising me of any change to the register.

5.5 The Planning History shows that there has been ongoing planning enforcement issued on the land for decades. Having lost the recent appeals I decided to comply with everything, resolve all the issues on the land and move forward. I am frustrated that in trying to comply with the 1982 and 2023 Enforcement Notices, I have then received a further Enforcement Notice for undertaking those works. Additionally, as well as preventing compliance with those planning notices, the current appeal notice also prevents us from restoring and safely opening up the public footpath.

5.6 Additionally, I have acted to restore the condition of the land for environmental benefit, and for personal reasons due to the site's association with my late son Darcy and also to facilitate beneficial use of the land in future, subject to necessary planning permission. I believe that the restoration, which has been outstanding for over four decades now, will be to the benefit of the neighbours and the wider users of land who navigate the public footpath. I have read the concerns of Serenity Welfare and I confirm I seek to bring benefit (in terms of the restoration and improved environmental benefits and landscaping) rather than disruption and will happily work with them to limit any disruption during the restoration.

## **6.0 Summary of Proof**

6.1 My period of firsthand knowledge of the appeal site dates back to 1981. I was directly involved in the filling of the site with waste material and muck since that time. I personally drove the dozer, tipping much of the waste material into the pit myself.

6.2 In 1983, my Dad purchased the site (two years having purchased the tipping rights for the filling of the pit with waste material). In 2015 following my Dad's passing, my mum transferred the ownership of the land to myself. In 2023, I transferred part of the ownership of the land to my son, Ryann, who is the Co-Appellant in this appeal.

6.3 As set out in detail above, I am aware from my first-hand knowledge of the land that the restoration required by the Enforcement Notice was never completed. I have set out the reasons why I believe that the Officer's opinion in 1996 that it had been restored, is incorrect.

6.4 After a series of unsuccessful planning applications and appeals over recent years, I have sought to comply with the outstanding enforcement notices and ensure that the land is restored and without the blight of the non-complied with notices. I now find myself in the situation where I have an earlier Enforcement notice on my parcel of land which requires me to restore it, and a contradictory notice across the wider parcel which prevents to continuation of further restoration works.

## **7.0 Statement of Truth**

7.1 I believe that the facts stated in this proof of evidence are true.

**Signed:**



John William Croke

**Dated:**

15/062026