



STATEMENT OF CASE

SITE: Land to the east of Dradfield Industrial Estate, Dradfield Lane,
Soberton, Southampton, Hampshire, SO32 3QD

APPEALS BY: Mr N Butler

AGAINST PLANNING DECISION 21/01858 AND 2 ENFORCEMENT NOTICES

DATE: 2nd February 2023

APPEAL REF: APP/L1765/C/22/3311622



TABLE OF CONTENTS

| | |
|--|---|
| 1. INTRODUCTION | 2 |
| 2. HISTORY | 2 |
| 3. RESPONSE TO GROUND (a) | 3 |
| 4. RESPONSE TO GROUND (f) | 4 |
| 5. RESPONSE TO GROUND (g) | 4 |
| 6. CONCLUSION | 5 |
| 7. APPENDICES | 5 |

1. INTRODUCTION

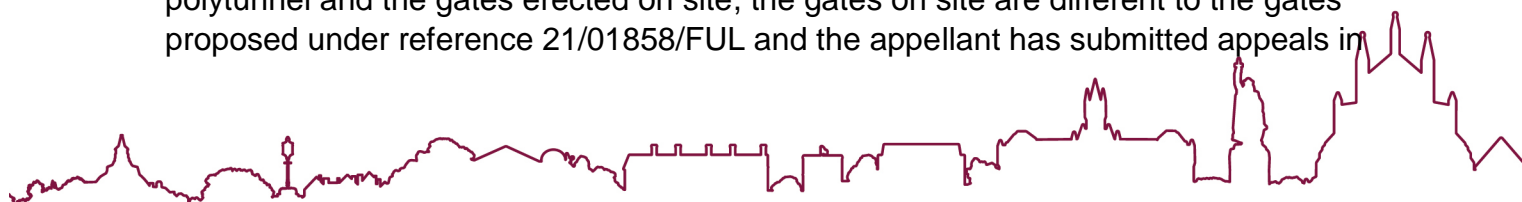
This statement of case relates to the refusal of a planning application appeal and two enforcement notice appeals. The planning appeal relates to Retrospective planning permission for an improved site access with the erection of 1.75 high oak access gates and polytunnel at Land to the east of Dradfield Industrial Estate, Dradfield Lane, Soberton, Southampton, Hampshire, SO32 3QD and this is addressed in appendix A, B, C and D. The statement also relates to 2 subsequent Enforcement notices that were served in relation to the polytunnel and the existing unauthorised gates on site and these are addressed below and in appendix E, F, and G.

2. HISTORY

A planning application was submitted under reference 21/01858/FUL for Improved farm access (retrospective), with the erection of 1.75m high oak access gates and polytunnel.

This application was refused by Winchester City Council and an appeal has been submitted in relation to this matter.

Winchester City Council have also served Enforcement notices in relation to the polytunnel and the gates erected on site, the gates on site are different to the gates proposed under reference 21/01858/FUL and the appellant has submitted appeals in



relation to both notices. The appellant has request that all notices be joined and this is considered acceptable by Winchester City Council.

3. RESPONSE TO GROUND (a) –

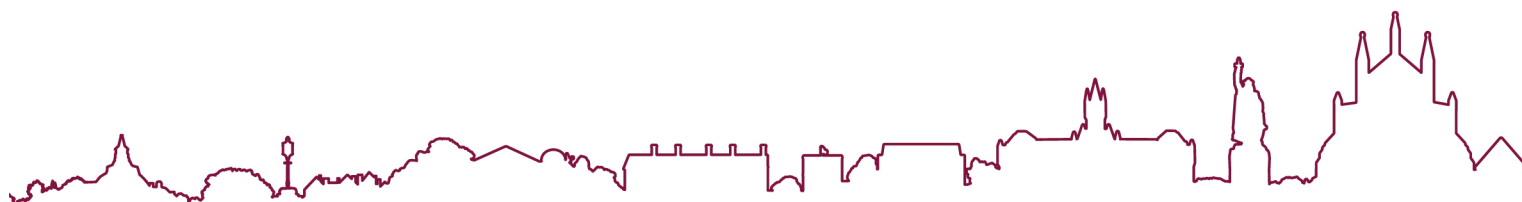
That, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged.

The appellant has appealed the Planning Application 21/01858/FUL decision to refuse the existing Polytunnel and the proposed gates. The attached decision notice is attached within Appendix A and the Officer report is attached as Appendix B, I have attached Appendix C that is the statement of case regarding the Planning Application Appeal. I have also attached Appendix D that is an images showing flooding at the Dradfield Lane junction with Ingoldfield Lane.

It should be noted that whilst the appellant has appealed under grounds A in relation to the gates, the argument outlined relates to the fact that all three appeals be co joined and that the appellant accepts that the gates on site are not considered acceptable but enforcement should be held in abeyance until another form of gate has been approved.

It should be noted that Winchester City Council take the view that a real harm is caused by the gates remaining on site, this is supported by the officer report, attached as Appendix B and the appeal decision for the gates 20/01508/FUL, attached as Appendix G, that concluded that at paragraph 21 that ‘the gates were a form of enclosure which is alien to the landscape character of the area, and now provide a distinctive and harmful presence along Dradfield Lane’. Therefore allowing them to remain in abeyance will continue to cause harm to the site.

In relation to the ground A Enforcement appeal regarding the polytunnel, The appellant states that little or no regard was given for the existing drainage at the site, however this was assessed as part of the Planning Application process including consultation with a Drainage Engineer, who stated that polytunnel impacted on the area as a result of surface water. This is illustrated in the Officer report attached as Appendix B and is also highlighted in the Legal Memo attached under reference Appendix F. The drainage engineer concluded that it would impactful and this was deemed a reason to refuse the application and therefore the application was refused as a result the impact, the flooding is illustrated in the photograph at Appendix D.



4. RESPONSE TO GROUND (f) - That the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.

The appellant appeals ground F in relation to the unauthorised polytunnel. The grounds of this appeal states that Planning Conditions could be attached to overcome the objections regarding the site. It is apparent however that flooding has occurred at the junction of Ingoldfield Lane and Dradfield Lane, this is illustrated in Appendix D that shows the flooding being an ongoing issue and illustrated in Appendix B.

As a result it was concluded that these works should have been undertaken with immediate effect with clarification of the works upfront prior to decision as a matter of urgency. Discussion was undertaken with the agent relating to this and the need for a drainage containment system on site to prevent water migrating immediately to the adjoining land and causing flooding.

The attached officer report and decision notice outline the reason the Polytunnel was refused. It is also noted that paragraph 167 of NPPF states that development should not result in flooding elsewhere and that applications should be supported by site specific flood risk assessments. As outlined this has not been submitted by the appellant despite the attempts of Winchester City Council to have this submitted during the application process.

The council has received continued reports, from the public, which have alleged continued flooding adjacent to the site. It is anticipated that these representation may have been made to the inspectorate within 3rd party representation regarding the site.

The Councils position is that any additional development on the site will result in a cumulative impact on the flooding in the area. All attempts were made during the planning application process to resolve the matter with the appellant, therefore the flood risk remain of significant concern and has not been dealt with in accordance the NPPF and NPPG frame work.

5. RESPONSE TO GROUND (g) - That any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

The appellant states that he would require 12 months to remove the polytunnel on the basis of the vegetables being grown within the polytunnel. In order to prevent significant loss to the appellant. Winchester City Council has not observed plants



being grown or any other agricultural activities, when site visits have been undertaken, within the polytunnel. The use and paraphernalia observed has appeared to have more of an incidental nature associated with the unlawful residential use of the mobile, subject to an ongoing Enforcement Appeal. This is outlined in the memo to legal attached as Appendix E and details were not outlined by the appellant either regarding the proposed use other than stating it was for an agricultural use during the planning application process.

Never the less, the timeline given by the council is designed in order to consider the length of the European growing season and allow the appellant to make appropriate changes in a timely manner should the polytunnel be being used to grow plants. Therefore Winchester City Council remains of the view that 6 months is appropriate and reasonable.

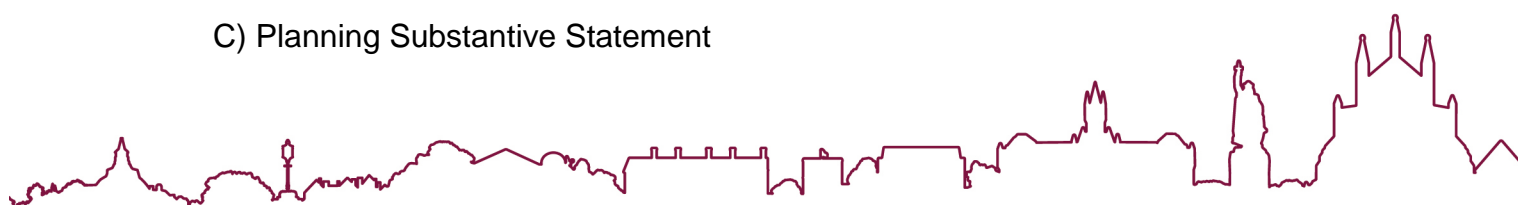
The appellant has also appealed the timeline regarding the removal of the current gates and states that 12 months would be needed to have new gates constructed and installed at the site. Winchester City Council has given 6 months in order to allow this to be undertaken. It is notable that should the notice be complied with the appellant will simply need to remove the whole wooden structure from the large metal field gates will remain enclosing the site and Winchester City Council would consider this acceptable to enclose the site and is typical of gates erected at rural location within the Winchester area. It is noted that other gates may be acceptable and the appellant is able to submit proposals that may be appropriate in a rural location, however an appropriate scheme has not been approved at the site despite the timeline that the gates have been on site and harm remains as outlined within the memo to legal and this is supported by the previous Planning Application 20/01508/FUL, Appendix F and subsequent appeal decision, Appendix G.

6. CONCLUSION

For the reasons given above and in the attached appendices, the Inspector is respectfully requested to dismiss the appeal against the Planning Decision reference 21/01858/FUL for Improved farm access (retrospective), with the erection of 1.75m high oak access gates and polytunnel and also the appeals regarding the 2 Enforcement appeals relating to the polytunnel and the insitu gates, as refused under reference 20/01508/FUL.

7. APPENDICES

- A) Planning Application Decision
- B) Planning Officer Report
- C) Planning Substantive Statement



- D) Images showing Flooding
- E) Enforcement Memo to Legal
- F) 20/01508/FUL Unauthorised Gates Officer Report
- G) 20/01508/FUL Unauthorised Appeal Decision

