

Southend Farm
Southend Lane
Soberton
Hampshire SO32 3QB

REPRESENTATIONS ON APPEALS:

APP/L1765/C/22/3311622 (Lead Case)

APP/L1765/C/22/3311632

APP/L1765/W/22/3307421

1. My family and I live in a neighbouring property to the site relevant to the appeal, having moved here in May 2011.
2. I would be grateful if these representations could be considered in relation to each of the linked appeals referenced above which arise out of a retrospective planning application (21/01858/FUL - Field to North of Dradfield Lane). The appellant appeals against the refusal of planning permission on this application and the two enforcement notices arising from that refusal.

In summary:

- The LPA properly refused the application, and consequently the enforcement notices are valid.
- The ground on which the application was refused (exacerbation of flooding risk from the polytunnel) was justified and well-founded.
- The LPA ought to have refused the application - in relation to both the enlarged entrance and the polytunnel - on additional grounds.

Flood risk and exacerbation of flooding since polytunnel erected

3. The polytunnel was erected without permission in late summer 2021. Over the following autumn and winter the flooding of the field and the adjacent highway was earlier and more severe than it has ever been in the time since we moved to the area in 2011. That acute flooding in and adjacent to the site has also been apparent this winter (2022/2023).

4. The following photographs were taken by me on 31 October 2021, far earlier in the year than we have ever seen flooding in the previous 10 years.



31 October 2021 – looking south: Ingoldfield Lane, approaching junction with Dradfield Lane



31 October 2021: looking north up Ingoldfield Lane from just beyond junction with Dradfield Lane

5. The appellant filed a 'Drainage Statement' in support of his application (undated, but published on the website on 8.9.21). In both that earlier statement and appellant's statement in support of the appeal it has been asserted that as a result of drainage works he has performed there is no longer a problem with flooding – see e.g. extracts below, with underlining added:
- **Statement on permission application:** “ *Suffice it to say that there is no longer any surface water flooding and the improvement in grass quality for grazing has increased tenfold.”*
 - **Appeal statement:** “ *The only issue relates to surface water drainage and resultant flood risk to the surrounding area. It is maintained that the drainage installed under permitted development suitably deals with this. Since its installation there has been no flooding onsite or along the adjoining roads, the drainage currently in place therefore deals with this issue. The fact that this part of the application is retrospective the local planning authority would have been able to see that this was the case for themselves. Instead, they have pursued the request for unnecessary surveys and reports instead of assessing the site facts available to them.”*
 - **Statement on costs application:** “ *The fact that the polytunnel was retrospective the local planning authority would have been able to see and fully assess the actual flood risk associated with the development. Had that been the case they would have been able to see that the site drains very*

well, a requirement for the protection of livestock on site. They would have also been able to see that the drainage ditches around the site perimeter have all been cleared and improved to ensure c and continuous drainage flow.

Therefore far from being a flood risk, the site has already ensured that flood risk has been reduced with surface water drainage already secured and improved.

The failure to consider and accept that these measures are already in place is wholly unreasonable. The result has been the pursuit of an unnecessary and unfounded appeal. Especially as the local planning authority will be unable to evidence any increase in flood risk directly associated with the retrospective polytunnel.

6. These statements are factually seriously incorrect. The flooding in the area, both in the appellant's field and the adjacent highway, has been exacerbated by his works, in particular the polytunnel. That was the position when the application was refused by the LPA in its decision of 21 March 2022, which correctly stated that the polytunnel "*has resulted in additional surface water exacerbating the cumulative impact of flooding in the local area*". The LPA's view is supported both by:
 - The expert advice from the LPA's Flood and Water Management Engineer ; and
 - Multiple objections and evidence from local residents and the Newtown and Soberton Community and Flood Action Group as to the drainage issues, including exacerbation of the flooding since construction of the polytunnel (in the context of the extensive areas of hard standing that have been laid on the site in reliance on permitted development).

7. The appellant himself regularly posts pictures of the flooding of his field on his public social media feed, so must be aware that the statements that have been made on the appeal are false. The following photos were posted by him on 21 November 2022.



Pond!!

That's the worst I've seen.



The rain was so thick I couldn't see the poly tunnel from the trailer.

General considerations

8. In addition to the drainage and flooding issues, the underlying application was contrary to the **Soberton Village Design Statement**, and **contrary the Council's policies** in the current Local Plan (in particular DM15, DM16, DM17, and DM23, as well as core policies CP13, CP15, CP16 and CP17. In summary,
- The development (both the gateway and polytunnel) is **detrimental to the rural character of the area and landscape setting**, from both nearer (gateway) and further (polytunnel, adding to existing non-permitted trailer) views. The gateway is not a significant improvement to the previous proposal in design, scale, or extent: still impermeable, forming an enclosure, and totally at odds with a rural agricultural site, and alien to the landscape. The enclosure has been extended by closed panel fencing along much of the perimeter fence: whilst not part of the application, and accepted by the Council as permitted development, this aggravates the harm caused by the proposal.
 - The enlarged gateway is **not required for lawful agricultural use**, but is designed for access for large non-agricultural vehicles (including the residential trailer in which the Appellant is living in breach of planning control; the subject to separate enforcement action and subsequent pending appeal) rather than any vehicles or machinery that would be consistent with any agricultural use on the site.
 - The development has involved **illegal destruction of a protected hedgerow**, which furthermore is a known breeding site of a protected species, the Brown Hairstreak butterfly, part of the only known population of this species in the Winchester district.
 - There was **no demonstrated economic or other benefit** to the proposal, and no such benefit is apparent.

9. **Background** The following are relevant background matters:

9.1 The gateway was enlarged without permission in May 2020, with the illegal destruction of a stretch of protected hedgerow, a known breeding site of a protected species. This was a criminal offence under the Hedgerows Regulations 1997, as well as a breach of statutory duty under these regulations. These breaches are aggravated by the fact that the hedgerow is categorised as 'important' under the Regulations. That breach has been the subject of separate enforcement action.

9.2 In refusing a previous retrospective application the Council's decision of 8.9.20 gave the following reasons (underlining added):

"1. The inappropriate design, scale and extent of the gates and boundary treatment along the frontage of the site introduce an urban/suburban appearance, enclosing the site which is alien to the landscape character of this rural area and contrary to policy CP20 of the Winchester District Local Plan Part 1 and policies DM15, DM16, DM17 and DM23 of the Winchester District Local Plan Part 2 and contrary to the objectives of the Soberton and Newtown Village Design Statement.

2. The removal of a section of hedgerow has led to the loss of habitat that is legally protected. The application does not seek to adequately mitigate this loss or as a last resort compensate for the loss of this habitat. Furthermore the benefits of the scheme are limited and do not outweigh the unmitigated harm caused to ecology. The development is therefore contrary to policy CP16 of the Winchester District Local Plan Part 1 and paragraph 175 of the National Planning Policy Framework."

9.3 The Council's refusal in relation to the gateway was upheld by the Planning Inspector in a decision dated 8.3.21, which highlighted their "*solid impermeable design*", that they were not "modern looking", nor of "good low-key design of appropriate to the rural setting of the area". It was said that: "They detract from the rural location and appear dominant and unacceptable in moderate views ...". Paragraph 21 states (underlining added):

"The gates in particular form an enclosure which is alien to the natural landscape character of the area, and now provide a distinctive and harmful presence along Dradfield Lane. This neither responds positively nor has a satisfactory impact. The distinctive rural character and identity of local minor roads, such as this, are therefore important to protect."

The "design, height, extent and industrial appearance" were highlighted as making the gates unacceptable.

The Gates and enlarged Gateway

10. The application should have been refused by the LPA on the following additional grounds.

10.1 *Justification:* The identified purpose of the works is "improved site access". It is said that the enlarged entrance, together with the internal area of hardstanding serves "to allow for heavy machinery and vehicles to access and

turn on site without collecting mud and depositing it on Dradfield Lane” (para 2.2 of the Statement). However, the pre-existing access via a standard farm field gate (see photograph annexed to the application) was entirely adequate for any potential agricultural use of the field on a site of only 1.8 hectares. The application gives no indication as to what “heavy machinery and vehicles” related to agriculture could possibly require the enlarged access. The asserted purpose of the development has not been established. The only “heavy machinery and vehicles” that would require the enlarged entrance and associated hardstanding are for non-permitted uses.

10.2 *Cosmetic appearance:* Essentially the same assertions are made of the replacement gates as was made in the previously rejected application. They are similarly unsustainable. The new proposal justifies all the same objections that led to the rejection of the previous proposal. The only differences are that they are made of oak (irrelevant to their appearance) and are 30 cm less high. As before, the appearance of the gates may be viewed as incongruous, brutalist, discordant, and disproportionate in height and length, as a means of access to an agricultural field. There is no proposal to alter the size, scale, or design of the 1.8m closed side panel fencing. It is not correct that the new gates are “in keeping with the variety of high gates found along Dradfield Lane”. There is no agricultural site with such gates on Dradfield Lane (or, it may be speculated, anywhere else in the country). Even by reference to entrances to residential or commercial properties along the Lane, there is nothing remotely comparable in the visual impact or appearance of the gates. The scale and design (including their ‘impermeability’) of the gates is contrary to the principles and criteria set out in DM15 (local distinctiveness) and DM16 (site design criteria) of the Winchester Local Plan.

Conclusion

11. It is respectfully requested that all three appeals should be refused. The retrospective application was properly refused – and should have been refused on additional grounds. The enforcement notices consequent upon that refusal are lawful and appropriate.



Angus McCullough