



Alpha Planning Ltd.

Planning Statement

Change of use of sites from bakery
(Class B2) to vehicle storage (Class
B8), with ancillary office space (Class
E) and external improvements to
Unit 1-5 West Road.

At:

Unit 4 West Mews, West Road,
London N17 0QT and Unit 1-5 West
Road, London N17 0XJ

On behalf of:

Redcorn Ltd.

APL Ref: APL/00351/RED

May 2023

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1.0 Introduction

- 1.1 This planning statement is provided in support of a planning application made to the London Borough of Haringey as the local planning authority (LPA) on behalf of Redcorn Ltd. for the change of use of Unit 4 West Mews and Unit 1-5 West Road from Class B2 to Class B8, with Unit 1-5 also including ancillary office space.

2.0 Site and Surroundings

- 2.1 The application relates to two sites situated on the eastern side of West Road – Unit 1-5 West Road and Unit 4 West Mews, with the former measuring 0.5 hectares and the latter 0.15 hectares. Both sites were formerly occupied by Michael's Pitta Bread Bakery, however, this company has since gone into administration and ceased trading. Unit 1-5 has, therefore, been vacant for a number of years, whilst Unit 4 was vacant for over six years before the building burnt down in 2015 with the site being cleared at the beginning of 2016.
- 2.2 Both sites are situated within the Brantwood Strategic Industrial Location (SIL), which is safeguarded land for employment generating uses that are integral to the continued growth of both the local and wider London economies. The site is also located within the Lee Valley Opportunity Area.

3.0 The Applicant

- 3.1 The application is submitted on behalf of Redcorn Ltd. The company was established in 1992 and has subsequently grown to become one of the most respected and professional vehicle recycling and disposal agents in the UK, currently disposing of over 150,000 cars per annum. Redcorn Ltd. are an Authorised Treatment Facility, meaning that they adhere to relevant legislation that applies to the disposal of end-of-life vehicles.
- 3.2 As well as offering services to the general public, Redcorn Ltd. currently contract for 23 councils and the police in and around London, who employ Redcorn Ltd. to remove abandoned and untaxed vehicles. This comprises a valuable service that assists in protecting the quality of the built environment. Letters of support that demonstrate the importance of the service that Redcorn deliver are provided in support of the application.



- 3.3 Redcorn Ltd. currently own and operate two other sites within the Sil. Both are situated to the north of the application sites, with the company's breakers yard located at Redcorn Ltd., Brantwood Road, and their car parts store and shop located at No. 18 West Road. The breakers yard employs 40 people, whilst their store and shop employs 20. Redcorn Ltd. are, therefore, longstanding occupiers within the SIL and contribute significantly to employment within the area. The application seeks to further this economic benefit and support further growth.

4.0 The Proposal

- 4.1 The proposed development seeks planning permission for the change of use of the two sites (Unit 1-5 West Road and Unit 4 West Mews) from a bakery (Class B2) to vehicle storage (Class B8). The storage of vehicles would relate solely to those being transported to the site and would not reflect what had previously been proposed as a lorry park (sui generis) at Unit 4. Thirty-five car storage spaces would be provided at Unit 4, with another 130 spaces provided at Unit 1-5.
- 4.2 For Unit 1-5 West Road, the development also includes the improvement of the appearance of the site, with the building having already been clad and painted to enhance its visual appearance and the amenity of the area. Further, the existing office spaces at ground and first floor levels would be refurbished as well as extended in place of the existing mezzanine. This replaces the previous office space, which was significantly dilapidated and unusable for contemporary employment purposes. Ten staff parking spaces would be provided across the two sites, with six at Unit 1-5 and four at Unit 4. Eight Sheffield bike stands, totalling 16 spaces, would also be installed, with five stands at Unit 1-5 and three stands at Unit 4.
- 4.3 Each site has manoeuvring space that is supported by swept path analysis, meaning that no commercial activity would have to take place outside of the site. Additional markings are also proposed at the entrance of the sites to ensure that they are clear to vehicle users and pedestrians in equal measure. Visibility splays have also been indicated within the submission and justification provided within the supporting transport statements.
- 4.4 The two sites would complement the existing sites currently owned and operated by Redcorn Ltd. within the same SIL. These include the car breakers on Brantwood Road, as well as the car parts storage, refurbishment and sales use at No. 18 West Road. Together, all four sites



would work together as individual parts of a sequential process. The car storage here is, therefore, a Class B8 use, which forms part of a larger, multi-site commercial/industrial process.

- 4.5 Vehicles would be brought to the proposed sites from other existing sites (outside of the SIL) if owners fail to collect them, where they would be stored for disposal. There would not be any owners of vehicles coming to these sites. Once vehicles have arrived at the application sites, this opportunity would have passed and the cars are firmly in the process of being recycled. Vehicles would be transported to the proposed sites only by Redcorn Ltd.'s fleet of collection vehicles. They would then be transported to the breakers yard at Brantwood Road by these same vehicles, with their parts being moved over the road to No. 18 West Road, where they are refurbished (where necessary) and stored for sale.
- 4.6 Redcorn Ltd. presently employ over 300 people with the majority working from home. As well as giving rise to new employment opportunity through the operation of the vehicle storage use, the ancillary office space would also see existing employees brought back into the workspace and making use of local services (café, convenience, etc.), as well as new opportunities being created. From the outset, the proposal would bring 65 full time equivalent (FTE) jobs back to the SIL, whilst securing floorspace for further growth in the future. Of these, 60 would be provided at Unit No. 1-5, with a further five provided at Unit 4.

Use Class

- 4.7 The use class has been questioned by the LPA, with some reservation expressed as to whether the proposal would be sui generis, rather than Class B8. The proposed use has been described above, with the sites to be used for the purposes of storing cars. This is a crucial part of a wider industrial/commercial process with cars stored, not parked, and as noted above the cars are delivered to the site on the back of a lorry and are not driven to the site.
- 4.8 To assist the LPA, three appeal decisions are provided as an appendix to this statement, where the difference between car parking (sui generis) and car storage (Class B8) is addressed. These appeal decisions clearly demonstrate that there is a key distinction between parking and storage.
- 4.9 The first, from 1997, relates to the storage of cars prior to their sale at auction (PINS ref: APP/M1520/A/96/266602/P2). Here, the LPA alleged that the use was sui generis, however, this was refuted by the Inspector and the appeal was allowed. The Inspector made clear that

Class B8 includes open land, as well as internal storage, and that there is no differentiation within the Use Classes Order as to what is being stored. Though the issue here concerned the extent of the planning unit, that car storage comprises a Class B8 storage use is unequivocal.

- 4.10 The second in 2013, concerns the storage of vintage cars on the basis of non-domestic garaging (PINS ref: APP/M0933/X/12/2184048). Again, the LPA stated that the use was *sui generis* in dismissing the certificate of lawfulness, but the Inspector, referring to *Newbury DC v SoS for the Environment* (1981) A.C.578, found the use to be one defined as storage and the appeal was allowed. This was in spite of the storage use not being a part of a business. The proposal subject of this application is a part of a key employer within the area.
- 4.11 The third relates to an appeal against an enforcement notice served against the unauthorised change of use from a car park to car storage in 2019 (PINS ref: APP/P1560/C/18/3204842). The Appellant claimed that no change of use had occurred, with the Inspector dismissing this argument as car parking is *sui generis* and car storage falls within Class B8. In reaching this decision, the Inspector makes reference to the Court of Appeal judgement *Crawley BC v Hicknet Ltd.*(1988), which accepted that the use as a car park and as car storage are distinct uses.
- 4.12 That car storage falls within Class B8 is not, therefore, in dispute. As has been described, cars are transported to the sites and stored for a period of time until they continue through the recycling process.
- 4.13 For all the reasons provided, the application should be considered on the basis of a change of use from Class B2 to Class B8.

5.0 Planning History

- 5.1 Both sites were previously occupied by Michael's Pitta Bread Bakery Ltd., however, this company has since gone into administration and ceased trading. Unit 1-5 has, therefore, been vacant for a number of years, whilst Unit 4 was vacant prior to the building burning down and the site has been empty since it was cleared at the beginning of 2016.

Unit 4 West Mews

- 5.2 On 30 November 2018, planning permission was refused for the change of use of the site from a bakery (Class B2) to a lorry park (*sui generis*), which included the erection of a boundary fence (LPA ref: HGY/2018/2849). The reason given for the refusal of this application

related solely to the absence of information submitted concerning trip generation and turning movements. Consequently, the LPA considered that the use as a lorry park would lead to traffic and transport implications, which in turn would cause harm to the safe and free flow of traffic, to the detriment of the efficiency of activity within the SIL.

- 5.3 On 08 April 2021, a second application proposing to regularise the same use was refused (LPA ref: HGY/2020/1738), with the reason for refusal once again relating to the highway implications associated with the lorry park and their impact upon the functionality and attractiveness of the SIL.
- 5.4 Following refusal of this application, the Council issued an enforcement notice against the development, which was appealed by the Applicant (PINS ref: APP/Y5420/C/21/3275288), however, this enforcement notice was withdrawn on 30 September 2021 (with a subsequent enforcement notice issued – see below).
- 5.5 On 01 November 2021, an appeal against the second refused application (LPA ref: HGY/2020/1738) was dismissed by the Planning Inspector (PINS ref: APP/Y5420/W/21/3274926), who agreed with the Council that the development would cause material harm to highway safety, the free flow of traffic and the operation of the SIL, but found no issue with the boundary fence, and granted consent for this aspect of the proposal.
- 5.6 It is significant to note that, whilst the Inspector found that the sui generis use fell outside of uses permitted within the SIL, he acknowledged that the use supported Redcorn Ltd.'s, main activity of dismantling and recycling vehicles, a waste industry which is supported by Policy SP8. Notwithstanding this assessment, no further evidence relating to transport and safety, such as a transport statement, was provided to the Inspector, and the appeal was dismissed on that basis.
- 5.7 Prior to the determination of this appeal against refusal, the LPA issued a second enforcement notice relating to the same land on 30 September 2021. The enforcement notice alleged that:
- ‘Without planning permission, the material change of use of the land to motor vehicle parking, vehicle repairs, storage of motor vehicle parts, siting of a caravan and shipping container and erection of a shed’.*
- 5.8 Three reasons were given for issuing the enforcement notice, namely:

1. *'The use of the land for parking motor vehicles and repairs has an adverse effect on the highway network and is adversely affecting this part of the industrial estate leading to increased vehicle movements and associated queuing and congestion, giving rise to severe consequences for the immediate highway network, in terms of the free flow of traffic and highway and pedestrian safety, as well as undermining the functionality and attractiveness of the industrial estate and the strategic objective of such employment sites, contrary to London Plan 2021 Policies E5, T1 and T4, Policies SP7 and SP8 of the Haringey Local Plan 2017, and Policy DM37 of the Development Management DPD 2017.'*
2. *This vehicle repairs and storage and processing of vehicular parts has resulted in the discharge of waste oil and other by-products onto the land contrary to Policies DM23 'Environmental Protection', DM27 'Protecting and Improving Groundwater Quality and Quantity' and DM30 'New Waste Facilities; of the Haringey DMDPD (2017).'*
3. *'The erection of a shed, siting of a caravan and shipping container results in the provision of cluttered development, which has no architectural and/or functional relationship with the prevailing form and pattern of development in the immediate vicinity. This is contrary to Policy DM1 'Delivery High Quality'.'*

5.9 Redcorn Ltd. appealed against the issuance of this enforcement notice, with the appeal being dismissed on 04 May 2022 (PINS ref: APP/Y5420/C/21/3286295). A very limited amount of information was provided in support of the appeal by the Appellant and, consequently, the Inspector found favour with the LPA on grounds of character concerning the structures, contamination regarding the discharge of oil and other waste materials, and highway safety. The Inspector extended the period of compliance to five months from the decision.

Unit 1-5 West Road

- 5.10 As noted previously, the site was formerly occupied by Michael's Pitta Bread Bakery.
- 5.11 There is no planning and/or enforcement history associated with this site available on the Council's website.

Pre-Application Advice

- 5.12 In late-Summer 2022, the Applicant submitted a pre-application enquiry to the Council concerning the proposal for B8 storage of vehicles on the two sites, with pre-application

notes provided to the Applicant by the LPA in October 2022. The application has been prepared in view of the initial comments that were received.

- 5.13 The LPA requested that the Applicant demonstrate that the proposed uses differed from a temporary car park. Since the proposal relates to the storage of abandoned/nuisance/uninsured vehicles for disposal it is quite clear that the use differs from a car park, where vehicles are driven to the location by their owners, parked for a period of hours (or in some cases days) and then driven away from the site by their owners once they have concluded their activities. Clearly, the proposed use, where vehicles are collected at the request of numerous local authorities or the police, and delivered to the site on the back of a lorry, and stored for a period prior to being taken to the breakers yard, the use is storage and falls within Class B8.
- 5.14 The LPA also advised that the development proposal should seek to address the policy requirements of Policy DM37 of the Development Management DPD. This is fully considered within the planning assessment section later in this statement.
- 5.15 The pre-application advice also provided guidance on the content of transportation-related evidence that should be provided to support a planning application.
- 5.16 Issues raised through the previous planning and enforcement cases at the site were also summarised in the pre-application note. In response to issues relating to the use, highway implications, contamination and design/character, this application has incorporated the following:
- The use and how it interacts with its associated sites is made clear;
 - Two transport statements are provided to fully consider all implications;
 - No car breaking activities are proposed; and
 - The structures that had been brought to/erected on the site would be removed.
- 5.17 The pre-application advice note also summarised complaints raised by Councillors. These related to the demolition of existing structures, use as a lorry park without planning permission, noise and disturbance issues, and amenity implications of any development. This application considers the following:
- The previous building at Unit 4 burnt down and has been cleared. The temporary structures would be removed. The fence was granted on appeal in 2021;

- The lorry park has ceased operation and this application relates to car storage, not a lorry park. This is addressed within the planning assessment section that follows; and
- The development includes visual improvements and this is fully addressed within the planning assessment section of this statement.

5.18 It is considered that the proposal appropriately addresses the points raised within the initial pre-application correspondence provided.

5.19 Subsequent advice was provided in April 2023 with a more comprehensive response given by the Council. First, it is now accepted by the Council that the proposals comprise Class B8 storage uses, meaning that the principle of development would be acceptable within this allocated employment area. The response, however, made clear that the transport statements required further work to account for concerns raised by the Local Highways Authority. It was also commented that the proposals do not sufficiently demonstrate that proposals would contribute to the intensification of employment. Officers advised that the Applicant would need to identify and adopt a much more modern approach to the operation of a vehicle storage business.

5.20 The additional pre-application advice has been fully considered and addressed within this submission. Further, an annotated version of the pre-application advice has been submitted to show how the points raised have been addressed.

6.0 Planning Policy

6.1 The revised National Planning Policy Framework (NPPF), published in July 2021, sets out the Government's planning policies for England.

6.2 The NPPF provides guidance for local planning authorities both in drawing up plans and in determining applications. The NPPF states that decision-makers "should seek to approve applications for sustainable development where possible" (paragraph 38).

6.3 The London Plan, published in March 2021, establishes the spatial development strategy for Greater London. Relevant policies in the London Plan include:

- Policy GG5: Growing a Good Economy – seeks to protect and enhance London's economy;

- Policy SD1: Opportunity Areas – considers development situated within identified opportunity areas, which are strategic areas earmarked for significant growth in terms of homes and employment. This policy supports development that creates employment opportunities for Londoners;
- Policy D4: Delivering Good Design – establishes the need to ensure that development achieves a high standard of design;
- Policy E4: Land for Industry, Logistics and Services to support London’s Economic Function – establishes the need to maintain an appropriate amount of land to support growth of economic functions;
- Policy E5: Strategic Industrial Locations (SIL) – identifies SILs as London’s largest concentrations of industrial/employment land;
- Policy E7: Industrial Intensification, co-location and substitution – notes, inter alia, that development plans and development proposals should be proactive and encourage the intensification of business uses;
- Policy SI1: Improving Air Quality – seeks to protect and improve air quality;
- Policy SI12: Flood Risk Management – ensures that flood risk is managed and mitigated;
- Policy SI13: Sustainable Drainage – supports the introduction of SuDS to manage and mitigate flood risk;
- Policy T1: Strategic Approach to Transport – seeks to protect London’s transport networks;
- Policy T4: Assessing and Mitigating Transport impacts – considers the approach to identify potential harm to the transport network and proposing mitigation accordingly;
- Policy T5: Cycling – sets out the cycle standards;
- Policy T6: Car Parking – sets out vehicle parking standards; and
- Policy T7: Deliveries, Servicing and Construction – seeks to ensure that development does not cause harm to the transport network and that full consideration of such impacts is also given throughout the process of construction.

6.4 Haringey’s Development Plan comprises several documents, including the Strategic Policies DPD (adopted 2013, revised July 2017), the Development Management DPD (July 2017) and Site Allocations DPD (July 2017). The application sites fall within the Brantwood Road Strategic Industrial Land (SIL) allocation, as well as flood zone 2. With regard to the proposal, relevant policies within the Strategic Policies DPD include:

- Policy SP0: Presumption in Favour of Sustainable Development – establishes the presumption in favour of sustainable development;
- Policy SP1: Managing Growth – sets out the spatial strategy for the Borough;
- Policy SP4: Working Towards a Low Carbon Haringey – with regard to the proposal, requires non-residential development to achieve BREEAM ‘very good’ standard and explore opportunities to reduce carbon emissions of 20% from on-site renewable energy generation;
- Policy SP5: Water Management and Flooding – stipulates that the design and construction of new development should mitigate flood risk and improve the management of water;
- Policy SP7: Transport – promotes sustainable transport and the protection of the highway network;
- Policy SP8: Employment – seeks to protect existing employment land and grow job numbers within the Borough; and
- Policy SP11: Design – promotes the delivery of high quality design that preserves and enhances the character and appearance of the area.

6.5 With regard to the proposal, relevant policies within the Development Management DPD include:

- Policy DM1: Delivery High Quality Design – supports design-led proposals that respect the character and appearance of the surrounding area and takes opportunity to enhance visual amenity, especially in respect of integrated landscaping;
- Policy DM21: Sustainable Design, Layout and Construction – requires development to implement sustainable design principles, including in respect of site arrangement, renewable energy generation and construction practices;
- Policy DM23: Environmental Protection – seeks to protect the environment in terms of air quality, noise and vibration, and ground contamination;
- Policy DM24: Managing and Reducing Flood Risk – establishes that new development avoid and reduce the risk of flood risk, with development in flood zone 2 required to assess flood risk;
- Policy DM25: Sustainable Drainage Systems – requires new development to implement SuDS;

- Policy DM27: Protecting and Improving Groundwater Quality and Quantity – seeks to protect the water environment;
- Policy DM29: On-Site Management of Waste Water and Water Supply – requires adequate surface water, foul drainage and sewerage treatment capacity;
- Policy DM31: Sustainable Transport – promotes sustainable modes of transport and seeks to ensure that highway implications are mitigated;
- Policy DM32: Parking – establishes parking standards within the Borough;
- Policy DM37: Maximising the Use of Employment Land and Floorspace – deals with development occurring within SILs, concerning use and quality of design and relating to Policy SP8 of the Strategic Policy DPD.

6.6 Haringey are in the process of developing their new Local Plan, which will replace the existing Development Plan. Following preliminary consultation, the draft Local Plan was due to be published in Summer 2022, however, it has not yet been presented for public consultation. The prevailing suite of documents, therefore, remain the development plan in force for the Borough.

7.0 Planning Assessment

Principle of Development

- 7.1 In terms of Unit 4 West Mews, the previous applications, enforcement notices and appeals related to the use of the site for the purposes of a lorry park (sui generis) and car breaking activities (sui generis). It was on this basis that the developments were considered to be inappropriate by the LPA and PINS from a policy standpoint, though, in considering the appeal against the refusal of the 2020 application, the Inspector did observe a tension between the policy objectives of the Council's development plan; specifically, revolving around Policy SP8 of the Strategic Policies DPD (2017).
- 7.2 Notwithstanding the interpretation of the LPA and PINS, it is not considered that either of these developments would have been necessarily unacceptable in principle, with the supporting text surrounding Policy SP8 making clear that other uses could be complimentary to those proscribed within Class B2, B8 and Class E(g). It is, however, important to acknowledge that the use proposed, relating solely to the storage of vehicles and not the parking of operational vehicles (lorry park), would fall within Class B8. Policy E5 of the London

Plan states that development proposals within SILs should be supported where the uses proposed fall within the industrial type activities set out within Policy E4(A), which includes B8 uses. The proposed use therefore, is appropriate within the SIL and accords with Policies E4 and E5 of the London Plan. Further, Policy SP8 of the Strategic Policies DPD reiterates this, support of B Class uses within SILs.

- 7.3 The pre-application advice note from April was wrong in noting that the development would not accord with policies E5 and E7 of the London Plan. Policy E5 requires SILs to be managed proactively in order to sustain them for uses that support the functioning of the London economy, specifically stating that “development proposals in SILs should be supported where the uses proposed fall within the industrial-type activities set out in Part A of Policy E4”, the B8 storage uses proposed falling within the identified B Class activities. Whilst Policy E5 does refer to protecting, intensifying and making more efficient use of land in SILs, this is in relation to development plan policies and references enhancements such as: improvements to access; public transport; digital connectivity; and other related infrastructure.
- 7.4 Policy E7 encourages development plans and development proposals to be proactive and encourage the intensification of business uses, this is effectively in the context of the redevelopment of sites, advocating the introduction of smaller units, development of multi-storey schemes; the addition of basements; and more efficient use of land through higher plot ratios. The proposed development is not a redevelopment of existing sites, rather it is bringing back into use sites that have been vacant and underutilised for a number of years, creating new jobs, and with regard to Units 1-5 adding additional employment space, upgrading existing facilities and enhancing the attractiveness of the building (both internally and externally).
- 7.5 The pre-application advice also considered that the proposed development would fail to comply with Policy SP8 of Haringey’s Strategic Policies DPD. That policy is about protecting employment sites, which this application seeks to do by bringing back into productive use two sites that have previously been vacant. Whilst the policy does refer to meeting forecast demand for employment space, the references to the intensification and/or more efficient use of land are in the context of reconfiguration and re-use of ‘**surplus**’ Class B2 and B8 land or the intensification ‘**where possible**’ of existing employment sites. The proposal does not entail the redevelopment of a site, rather it is safeguarding and creating jobs within the borough for a Class B8 employer in a SIL which is an appropriate site for this form of use.

- 7.6 Therefore, contrary to the officers' suggestion in the pre-application advice, the principle of development would accord with employment policy in both the London Plan and Haringey's local plan and would be acceptable.
- 7.7 The latest employment land study that is publicly available – Haringey Employment Land Study (HELS) – was published in February 2015 and supported the development of the Council's prevailing development plan (2017). In assessing future need, three scenarios were explored: the Experian-based scenario, the London Plan-aligned scenario, and the trend-based scenario.
- 7.8 Both the Experian model and the London Plan-aligned model forecasted a growing need for Class B8 floorspace (+112,400sq.m and +111,600sq.m) and a decline in the need for Class B2 floorspace (-16,900sq.m and -30,300sq.m). This requirement is reflected in terms of required hectareage. As well as the proposed use being compliant with those listed as being acceptable within Policy SP8, the application seeks to introduce a use for which there is an identified need (B8 storage) at the expense of a use for which there is an evidenced declining need (B2 general industrial). The third model was trend based, and demonstrated that in the years prior to publication of the HELS, there had been a decline in the need for both Class B2 and Class B8 floorspace. This scenario is, however, informed by need and, in the scenario now presented to the LPA through the submission of this application, there is inherently a need for the proposed use against a lack of need for the existing use. The HELS, therefore, supports the proposal.
- 7.9 Development Management DPD Policy DM37 relates to maximising the use of employment land and floorspace, supporting proposals for the intensification, renewal and modernisation of employment land and floorspace where: the proposed use is acceptable as stipulated by Policy SP8; where possible, is designed to allow for future flexibility; makes adequate provision for on-site servicing and waiting vehicles; improves the quality of the environment; and makes a demonstrable improvement in the use of the site for employment purposes, having regard to the quality and type of employment floorspace, the quality and density of jobs to be accommodated, and the contribution to the achievement of economic objectives.
- 7.10 In considering previous proposals in respect of Unit 4 West Mews, neither the LPA nor PINS have identified many of these considerations as being of material concern. When refusing the 2018 and 2020 applications, the LPA made no mention of employment numbers, future flexibility, improving the quality of the built environment, densities, or economic objectives.

The only element of Policy DM37 that was referred to concerned part [B](e) – not restricting, preventing or in any way prejudicing the continued operation of surrounding employment uses – however, this policy was misapplied, since part [B] applies only to Locally Significant Industrial Sites (LSIS) and the acceptability of non-Class B uses within the LSIS. The application site is located within a SIL, not a LSIS.

- 7.11 The local policy context has not changed since the determination of these previous applications and the subsequent appeals. The regional context has also remained the same, with both the 2020 application and the subsequent appeals having been determined after the adoption of the London Plan in March 2021. Since the proposed use for the application site is a Class B8 use, which is an acceptable use within SILs, there should, therefore, be no policy objection to the proposal.
- 7.12 Notwithstanding this assessment, for completeness, the Applicant has undertaken to consider the proposed use in view of Policy DM37. As noted above, the proposed use would be consistent with those accepted within SILs. This aspect of Policy DM37 is, therefore, satisfied. As for designs allowing for future flexibility, both sites would be perfectly adaptable for future redevelopment, with Unit 4 remaining essentially undeveloped through the change of use and Unit 1-5 incorporating an enhanced provision of ancillary office space whilst also retaining an expansive open space that could readily accommodate future opportunities.
- 7.13 In terms of accommodating servicing and waiting vehicles, both sites, as demonstrated by the accompanying plans, make provision for servicing and the delivery of vehicles to the site. There is, therefore, no need for displacement onto the highway. This is somewhat related to the key issue raised in response to previous submissions, and is fully addressed by the supporting set of plans and accompanying transport statements covering the two sites. These statements have also been revisited following the receipt of further pre-application advice from the Council in April 2023, with the transport statements further demonstrating that there would be no adverse impact upon the operation and functionality of the wider SIL.
- 7.14 As will be discussed within the following section, the proposals would enhance the quality of the environment of the site and the business area.
- 7.15 The final requirement of Policy DM37[A] concerns improving the use of the site for employment purposes. As noted above, this relates to the quality and type of employment

floorspace, the quality and density of jobs to be accommodated, and the contribution to the achievement of economic objectives.

- 7.16 In the case of both sites, they were formerly occupied by Michael's Pitta Bread Bakery, which first went into administration, and then ceased trading entirely. In early-2016, following the fire that resulted in extensive damage to the building that was located at Unit 4, the site was cleared. This demolished building, as well as that which currently occupies Unit 1-5, was/is older and, therefore, neither building operated at the efficiency of a contemporarily designed factory. The quality of the employment space was, therefore, poor and failed to provide the number of jobs that might have otherwise been anticipated from sites of this scale. This position is, of course, furthered by the absence of any building at Unit 4, which would now require full redevelopment to return it to its previous Class B2 use. With the previous owners of the site having now ceased trading completely, there are currently no employment opportunities generated by the lawful use of these sites. Conversely, the proposal would give rise to 65 FTE jobs across the sites (60 at Unit 1-5 and five at Unit 4), which represents a significant uplift in the number of jobs in the SIL and provides further opportunity for growth moving forward. This is primarily achieved through the refurbishment and extension of the ancillary office space at Unit 1-5, which would see the delivery of new jobs, together with those provided by the provision of space that allows for existing employees working from home to return to their workplace on a flexible basis. This encourages the use of supporting services within the locality, such as convenience stores, cafes, etc.
- 7.17 The proposals would, therefore, contribute towards the Council's economic objectives as it would deliver new jobs to a key SIL within the Borough, as well as deliver additional Class B8 floorspace – a use for which there is an identified need within the Borough. This would be at the expense of Class B2 floorspace, which the Council's own evidence base forecast was to contract in terms of need. Two vacant sites would be brought back into use and enhancements to the appearance of Unit 1-5 would significantly improve the appearance of this site and the surrounding area.
- 7.18 The Council's pre-application advice has commented that "neighbouring sites are being redeveloped to provide enhanced modern employment uses," however, officers have not provided any details of the sites or developments proposed. Further, the reference is to sites being redeveloped, whereas the proposal does not include redevelopment, but rather brings back into beneficial use two sites that have been vacant for a number of years. The pre-

application advice also suggested that the Applicant 'needs to identify and adopt a much more modern approach to the operation of a vehicle storage', however officers have not offered any suggestion as to how this might be achieved. Having confirmed that the proposed B8 use would be acceptable in principle, it is considered unreasonable to require that use to identify a more modern approach when the use in question amounts solely to the storage of vehicles. Nevertheless, the Applicant has sought to modernise Units 1-5, with enhanced treatment of the external appearance of the building and refurbishment of the front of house space. Further, the proposed development includes the replacement of the open mezzanine floor, with additional ancillary office space, modernising and upgrading that area to the high standards achieved at the front of the building.

7.19 The Council has also opined that 'due to lack of employment intensification, modernisation, transport impacts and impacts on the quality of the local environment ... the proposal falls well short of the policy aims' for the area. Since the former occupiers had gone into administration, neither site provided any employment prior to their acquisition by the Applicant and, therefore, the lawful use of both sites generated no economic benefit. In addition to bringing the sites back into beneficial use and providing employment where there was none, the proposed development also results in an intensification in the use of Units 1-5 through the creation of an additional floor for ancillary office space. It is considered unreasonable for the Council to expect every application for a development that entails the reuse of existing buildings to result in the modernisation of those premises when the buildings are suitable for the lawful and proposed use, however, in this case Units 1-5 have been modernised, with refurbishment of the front of house office area and with the cladding externally of the building with a beneficial impact on the quality of the local environment. The proposals would generate net employment and encourage the re-use of vacant sites – both of these facts inherently leading to intensification.

7.20 Further, it is reiterated that the application sites would comprise a part of a sequential process that is heavily related to two existing sites further to the north. They are necessary to reinforce these existing operations, which continue to provide employment and contribute towards the local economy. The application sites would support this existing benefit, as well as provide further opportunities for growth and employment through their re-use for storage and ancillary office purposes, together with the potential for future expansion.

- 7.21 With the alternative being that the two sites remain vacant and continue to offer no contribution towards employment and the wider local economy, it is held that the proposals comprise the effective use of vacant sites within a location that is highly appropriate in terms of the Applicant's existing operations. On that basis, it is considered that the principle of development is acceptable and accords with policy within the development plan.

Character Implications

- 7.22 As discussed within the preceding section of this statement, the proposed use of the sites would be consistent with the policy requirements of the Haringey's local plan and the London Plan. Other Class B8 uses exist in the surrounding area, and Class B8 uses are universally accepted as being appropriate in strategically allocated industrial areas. On that basis, the proposal would be consistent with the commercial and industrial character of the area.
- 7.23 It is, however, accepted that both sites require intervention in terms of their appearance, with Unit 1-5 having suffered a tired appearance and the building that formerly occupied Unit 4 having burnt down.
- 7.24 Unit 4 West Mews now benefits from a relatively newly erected fence surrounding its curtilage owing to the outcome of the appeal against the latter refusal (PINS ref: APP/Y5420/W/21/3274926).
- 7.25 Since purchasing the site, the Applicant has undertaken refurbishment work at Units 1-5 West Road, which has now been clad and painted to improve its external appearance, to the significant benefit of the character of the street scene. In addition, the internal reception and ancillary office floorspace has been completely renovated and further work is proposed to provide enhanced ancillary office space in the location of the existing mezzanine floor.
- 7.26 Consequently, the proposed development would result in the introduction of policy compliant uses that would seamlessly integrate with the prevailing character of the surrounding industrial area. Further, the proposals would also see the appearance of the sites build upon the introduction of the new fencing at Unit 4 with the cladding and paint that have been applied to Unit 1-5 and the refurbishment of the office space within. It is, therefore, considered that the developments would be consistent with and enhance the character and appearance of the area.

Amenity of Adjoining Occupiers

- 7.27 The application sites are situated within a SIL, which, along with their economic benefits, are specifically allocated to accommodate commercial and industrial uses that would be inappropriate to locate elsewhere. At Policy E5, for instance, the London Plan is clear that such areas should be protected for 24-hour use.
- 7.28 The lawful use of both sites presently comprises Class B2 and they are unrestricted in terms of their hours of operation and the specific nature of their use. Consequently, both sites could be lawfully utilised by any industrial process, regardless of its environmental impact.
- 7.29 The closest residential properties existing directly to the rear/east of Unit 1-5 within Willoughby Lane and further to the south within Willoughby Park Road, Willoughby Grove and the southern-most part of West Road. Given that no residential or other sensitive uses exist within the boundary of the SIL, no other sensitive receptors against which it is appropriate to consider amenity have been identified.
- 7.30 In any event, the proposed use for both sites relates to storage (and ancillary office space). This is specifically limited to the storage of vehicles and there is no industrial process that would take place. The propensity for noise and disturbance being generated by the proposed use of these two sites is, therefore, limited only to the re-use of these existing industrial sites, and would have a far-lesser impact than the amount of noise and disturbance that would be anticipated by their use for unrestricted general industrial use which could lawfully operate from the two sites.
- 7.31 Further, no objection has previously been raised by either the LPA or PINS in respect of the impact of the previously proposed uses upon the amenities of adjoining occupiers, including in dealing with the enforcement action and subsequent appeal related to the breaking of cars.
- 7.32 On that basis, it is not considered that the proposal would result in material harm arising to the amenities of adjoining occupiers.

Parking, Transport Implications and Operations of the SIL

- 7.33 Policy DM32 of the Development Management DPD considers parking and relies upon the standards set out within the London Plan. Policy T6.2 of the London Plan deals with the parking requirements for offices (including Class B2 and Class B8), whilst Table 10.4 sets out maximum parking standards. Haringey is an outer-London Authority, which means that there

is a greater provision of parking permitted relative to central areas and inner-London, however, the application site falls within the Lee Valley Opportunity Area, which requires a lesser on-site provision than typical outer-London areas. In accordance with the London Plan, Class B8 development within outer-London Opportunity Areas should provide a maximum of one space per 600sq.m.

- 7.34 Units 1-5 Water Road have a total internal floorspace of 3,336.5sq.m, meaning that six (5.6) spaces would be required in total. The application sites have a PTAL rating of 2, which indicates a relatively low level of proximity to public transport routes. As the proposal covers two sites, and Unit 4 Water Mews does not benefit from internal floorspace to count towards the calculation, it is, considered appropriate to allocate specific spaces at that site for employee parking. A total of 10 spaces are, therefore, proposed, six provided at Unit 1-5 and four provided at Unit 4. With 65 FTE employees to be generated between the two sites, this gives a ratio of one space for every 6.5 FTE employees.
- 7.35 The majority of Redcorn's 300+ staff live locally and it is likely that the same would apply to those additional employees that would result from the proposed development. Currently, 80% to 90% of staff travel to work using public transport and it is anticipated that this will be repeated with the proposed development. On that basis, private vehicle usage is expected to be limited and the parking provision would be appropriate for the development.
- 7.36 In terms of cycle parking, the London Plan sets out a requirement of one space per 500sq.m of external space. This gives a requirement of approximately six spaces, however, echoing the reasons surrounding the proposed provision of car parking, 16 secure spaces are provided, with five Sheffield stands at Unit 1-5 and three Sheffield stands at Unit 4. All of these would be within a secure compound. This would be consistent with the requirements of the London Plan. Notwithstanding this provision, employees generally live locally and would be encouraged to make use of public transport as the preferred modal choice.
- 7.37 Bearing in mind that there has previously been considered to be an issue with reliance upon parking on the highway and that the application is supported by two transport statements that bear out the above expectations, it is held that this provision would be acceptable and that no material parking implications would be anticipated. It is additionally reiterated that no owners of vehicles brought to the premises will be visiting either site. Whilst the transport statements consider parking stress within the locality, there is no evidence to suggest that the proposals would contribute significantly to this issue.



- 7.38 As noted within the introductory sections of this statement, the two sites would complement the existing sites currently owned and operated by Redcorn Ltd. within the SIL. These include the car breakers on Brantwood Road, as well as the car parts storage, refurbishment and sales use at No. 18 West Road. Together, all four sites would work together as individual parts of a sequential process.
- 7.39 Vehicles would be brought to the proposed sites from other existing sites (outside of the SIL) if owners fail to collect them, where they would be stored for disposal. Thirty-five car storage spaces are provided at Unit 4, with another 130 spaces at Unit 1-5. Vehicles would be transported to the proposed sites only by Redcorn Ltd's Hiab fleet (single load lorries with hydraulic lifts). They would then be transported to the breakers yard at Brantwood Road, with their parts being moved over the road to No. 18 West Road, where they are refurbished (where necessary) and stored for sale. This onward move to the breakers yard would be facilitated solely by the use of the same Hiab fleet, with no cars being moved under their own power (most vehicles are not brought to the site with their keys and/or are not taxed or insured). There would be no transfer of vehicles between the two application sites and no visitors are permitted to the site. It is reiterated that the application sites would provide for the storage of vehicles only and that the nature of this storage is that these vehicles have not been collected by their owners from the sites that they were previously stored at.
- 7.40 The application is supported by two transport statements that have been prepared by Transport Planning Associates (TPA). The statements consider both sites individually and draw together these respective matters to provide a full assessment of the implications of the development upon parking, the highway network and, consequently, the operation of the SIL. The findings are summarised here.
- 7.41 The application sites would accommodate their demand for staff car parking and cycle storage in accordance with local and regional standards, whilst demonstrating that the number of vehicular movements associated with the proposed operation would improve the situation compared to that associated with their former lawful Class B2 use – amounting to a total decrease of 67 vehicular movement per day across the two sites. There would be an increase of only three additional vehicular movements during the peak AM hour and a decrease of nine trips in the peak PM hour.
- 7.42 Further, adequate space for loading/unloading, manoeuvring and servicing is indicated on the submitted plans and this is fully supported by a comprehensive swept path analysis. For

both sites, this analysis is predicated on a 12m rigid vehicle accessing, turning and egressing within the site in a forward gear with the assumption that two other rigid vehicles are also parked on-site.

- 7.43 The same applies to visibility splays, which are readily achievable as demonstrated, with the primary issue being identified as being the obstruction of views for vehicles exiting the site from those parked on the highway. Whilst this is an existing issue that would apply to any use, it is also noted that this scenario would not be unacceptable. The Manual for Streets 215 states that “at urban junctions where visibility is limited by buildings or parked cars, drivers of vehicles on the minor arm tend to nose out carefully until they can see oncoming traffic, and vice-versa”, and, therefore, this is not considered to pose a highway safety issue. As outlined within the Crashmap data provide within the transport statements, no accidents have been recorded within the vicinity of the existing site access within the last five years, which suggests that the access operates safely at present. As well as visibility splays, the proposals would include the introduction of dashed markings at the vehicles crossovers to delineate the extent of the access and the dropped kerb would also be extended to cover the full radius of the existing bell-mouth junction.
- 7.44 The submission, therefore, demonstrates that the proposals would not have adverse implications upon the functionality and operation of the wider SIL, ensuring that all of its parking and servicing requirements can be readily accommodated within the curtilage of the respective sites and that this can be done safely. The findings of the transport statements conclude that the development would improve the situation that prevails in association with the existing Class B2 uses. On that basis, the proposals would comply with relevant policy and satisfy the primary cause of concern identified in the previous decisions of both the LPA and PINS.

8.0 Conclusions

- 8.1 The proposal offers a policy compliant re-use of vacant sites within a strategic employment area. In doing so, the proposed use of the sites for vehicle storage would meet an identified need for Class B8 floorspace and lead to a significant increase in the number of FTE jobs within the SIL.

- 8.2 The proposal enhances the appearance of the sites and improves the amenities of the street scene, whilst also offering no material harm to the amenities and/or living environment of surrounding occupiers.
- 8.3 The application has also sought to address previous concerns relating to the implications upon the operation of the wider SIL, ensuring that all servicing and deliveries are accommodated within the respective sites, to the continued benefit of highway flow and safety. Prior concerns around waiting in the highway and parking in the highway can be readily dealt with by the LPA through the use of planning conditions. For instance, a condition could be applied to ensure that all activities associated with the proposed uses take place only within the curtilage of the application sites. This is certainly the intention of the Applicant and this is reflected both here and within the transport statements provided.
- 8.4 The concerns of the Council are noted and have been fully considered. It is, however, held that there would be no material harm associated with the developments and that the proposed uses would be policy compliant. Whilst there would be limited opportunity to incorporate the degree of innovation that the Council has suggested would be appropriate, the developments do provide a significant enhancement to both of the sites and neither proposal precludes future opportunities for further growth at an appropriate time.
- 8.5 Overall, it is considered that the application is consistent with national, regional and local planning policy and that planning permission should be granted.



Appendix 1: Appeal decisions



The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

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cc: Director of Planning 4/4/97

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Your Ref:
388

Our Ref:
T/APP/M1520/A/96/266602/P2
T/APP/M1520/A/96/273793/P2

Date:

27 MAR 1997

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEALS BY MESSRS HOLDING AND BARNES LTD
APPLICATION NOS: CPT/141/96/FUL and CPT/401/96/FUL**

1. I have been appointed by the Secretary of State for the Environment to determine these appeals against the decisions of Castle Point Borough Council to refuse planning permission in respect of applications for vehicle storage (change of use) and the provision of tubular racking for vehicle storage on land at the corner of Kings Road and Romainville Way, Canvey Island. I held a Local Inquiry into the appeals on 29 and 30 January 1997.

2. As was clear from the evidence and as I noted on my site visit, the developments detailed above have taken place, although the layout of the racking differs from that shown on the application plan in that no vehicle unloading area has been provided. I therefore propose to deal with the appeals as relating to applications to continue the use, which I shall call scheme A, and to retain the racking, which I shall call scheme B.

3. Although there are two separate applications before me, it was agreed at the Inquiry that the proposals are very closely interlinked. Both matters were therefore considered together at the Inquiry, and I intend to consider both applications jointly in this letter, aside from certain occasions when I will distinguish between the proposals.

4. From my inspection of the site and the surrounding area, from the evidence presented, and from the representations received, I consider that there are three main issues in this case. Firstly whether the proposals would conflict with the Council's employment policy to the detriment of employment in the area. Secondly the effect of the proposals on the appearance of the industrial estate and the surrounding area, and finally whether the proposals would be detrimental to the working environment on the industrial estate and thereby lead to significant harm to future employment prospects in the area.

c.c. Land Charges 21/5/97

Policies and guidance

5. The development plan comprises the Essex Structure Plan Approved First Alteration 1991 (SP) and the Castle Point Approved Review Development Plan 1976 (ARDP). I must determine this appeal in accordance with the development plan unless material considerations indicate otherwise.

6. It was agreed at the Inquiry that the ARDP, although dated, remains part of the development plan in accordance with the advice in Planning Policy Guidance Note 1. The site of the appeals is shown as "white land" in the ARDP, where it was intended that existing uses of land should for the most part remain undisturbed. However, much has changed since the approval of the ARDP some twenty years ago, including the adoption of the SP, the considerable expansion of the built up area on Canvey Island, and the development of the Charfleets industrial estate within which the site is located. For all these reasons, I consider the ARDP has been largely overtaken by events, and I do not consider that it is of great assistance in considering these appeals.

7. My attention was also drawn by both parties to the provisions of the draft Local Plan 1994 (DLP) as proposed to be modified. I understand that the Inspector's report into objections to the DLP has been received and in part considered by the Council, and that the remaining parts of the report will be considered shortly. The DLP is a material consideration and has reached a very advanced stage of preparation. I understand that the Inspector's report has supported the relevant policy in the DLP, and that it is to be considered for adoption in this form. Under these circumstances I give it considerable weight.

8. The general approach towards employment policy is set out in SP Policies E1 and E1A. These state that economic activity will be encouraged except where development would conflict with other policies, and that greater flexibility will be allowed in the use of industrial land for development providing employment. These policies accord with the advice in Planning Policy Guidance Note 4, one of whose key aims is to encourage continued economic development.

9. At the local level, the area is defined in the DLP as a Protected Employment Area. DLP Policy ED2 states that proposals for development within Use Classes B1, B2 and B8 will be permitted in the Charfleets industrial estate, subject to compliance with any other relevant DLP policy. The policy also states that "sui generis" uses will be considered on their individual merits having regard to the relevant objectives and policies of the plan.

10. It was agreed at the Inquiry that the other relevant policies in the DLP are ED5 and ED6. Policy ED5 reflects SP Policy T8 and requires the provision of on-site vehicle parking and servicing in all new employment developments. Policy ED6 states that the Council will seek to encourage environmental improvements within employment areas.

The proposals in relation to the Council's employment policy

11. There was no agreement at the Inquiry as to whether your client's use of the site falls within Class B8 (Storage or distribution) of the Town and Country Planning (Use Classes) Order

(UCO) 1987, or whether it should be considered as a sui generis use falling outside the Classes in the UCO. This matter was discussed at some length at the Inquiry and is of importance due to the different approach taken by DLP Policy ED2 towards B8 and sui generis uses, as I summarised above.

12. As I understand the operation of your client's business, accident damaged vehicles are brought to the site from a wide area pending the resolution of the insurance position. The vehicles then remain on the site for an average of six weeks, after which they are removed for auction to your client's land west of Romainville Way. The auction takes place every Tuesday, and the cars do not subsequently return to the appeal site, but are collected from the Romainville Way premises by the purchasers. The Council have accepted that no dismantling, breaking or sales of vehicles or parts takes place from the appeal site.

13. The Council maintained that this use of the appeal site does not fall within Class B8, as there is constant movement between the appeal site and the Romainville Way premises and as the main purpose of the combined activity is the storage and sale of vehicles. The Council also suggested at the Inquiry that the two parcels of land form one combined planning unit, whose use could best be described as sui generis. In support of this argument, I was referred to a decision letter on appeals at Fairford, Gloucester (APP/C/95/F1610/639777-8 and APP/F1610/A/95/259036 & 96/269687). Your clients were the appellants on that occasion, and the Inspector concluded in the circumstances of that case that the storage and sale of vehicles was a sui generis use.

14. However, both application before me relate to the appeal site alone and scheme A only seeks permission for vehicle storage, without any reference to sales. Class B8 of the UCO includes the use of open land for storage or distribution purposes, without differentiating in any way between the type of goods which are stored. You accepted that your clients find it convenient to operate the storage facility close to the auction site, but you also stated that it could operate at a distance, and this statement was not contested by the Council. This leads me to conclude that the current proximity of the sites is not essential to the operation.

15. Under these circumstances, and in the absence of any evidence or detailed argument from the Council regarding their suggestion that the two sites form one planning unit, it is clear to me that the use of the appeal site should be considered as a B8 activity. The Fairford decisions dealt with circumstances where both the storage and sales activities took place on the same land, and this distinguishes that case from the current proposal.

16. In relation to the amount of employment which the use generates, the Council stated that your client's employment of six or seven persons on the site was lower than the Essex County Council average employment density for industrial estates, and argued that the proposals should be rejected on this basis. However, it was agreed at the Inquiry that some other B8 activities could result in lower employment densities. In any event, no development plan policy was drawn to my attention to require particular levels of employment to be achieved on industrial estates, and no evidence of demand for any other employment development of the site has been put to me. In these circumstances I therefore do not attach great weight to this argument.

17. I therefore consider that the proposals do not conflict with the employment policies in the SP and DLP, subject to compliance with any other relevant policy of the DLP. Under these circumstances, I do not consider that either scheme A or B would conflict with the Council's employment policy to the detriment of employment in the area.

The effect on the appearance of the industrial estate and the surrounding area

18. The southern part of the Charfleets industrial estate includes a considerable number of motor related businesses. As an inevitable consequence of the number of damaged vehicles both on open sites and visible around and within buildings, the area is not an attractive environment. Your client's other operations in Kings Road and Romainville Way contribute to this commercial appearance, although the stacked vehicles on your client's sites are, in my opinion, less unsightly than the piles of scrap vehicles and parts which I saw elsewhere on the estate.

19. I consider that, set against this background, the appearance of the site and the racking is unexceptional. However, the land is currently only enclosed by a chain link fence, and this permits direct views into the site. This allows for a direct view of the inevitably unattractive damaged vehicles under the racking and in the aisles, and of the manoeuvring of fork lift trucks. The existing fence could beneficially be replaced by a close boarded fence, as has been done at your client's Romainville Way site, and this would serve to limit the adverse visual consequences of the use. It was agreed at the Inquiry that the details of such a fence could be the subject of a planning condition related to scheme A. This would ensure the submission of an enclosure scheme for the Council's approval, and require its subsequent construction.

20. I appreciate that this would not eliminate the view of the cars stacked on the racks, which would still be visible above the fence line. However, I consider that the view of the racks and upper levels of the stored vehicles is less unsightly than the view of the ground level storage and manoeuvring area, and is less readily perceived from street level. Provided a condition were imposed to ensure that the racking does not exceed the height shown on the submitted plan, I consider that this aspect of scheme B is not harmful to the area.

21. I consider that the fact that your client's use does not include any breaking, sales, repairs, or auctions reduces the potential impact on the appearance of the area, as the consequences of these activities could be visually harmful. It was agreed that these uses could be excluded by the imposition of a planning condition.

22. The appearance of the site from the land to the south of the estate was also of concern to the Council, as a new entrance to the Charfleets estate may be formed from that direction if the new link road proposed in the DLP goes ahead. However, the Council stated that the land beyond the proposed road is also identified for industrial development, and the new road would therefore be running through an industrial estate at this point. For the reasons given above, I do not consider that the proposals would be out of place or harmful in such a commercial environment.

23. The appearance of damaged vehicles on the roads was a source of complaint by the Council, but they produced no evidence either to counter your claim that these did not relate to your client's activity, or to quantify the problem. Similarly, there was no evidence of police action

related to the obstruction of the highway, and I cannot give this aspect much weight in the absence of any evidence of the extent or source of the alleged problem.

24. Although there has been no highway objection to the proposals from the Council, and there are no parking or waiting restrictions on Romainville Way or Kings Road at this point, I nonetheless consider that on-site unloading and parking facilities should be provided as part of the development. The layout plan related to the racking application includes an unloading area, and I consider that the provision of this facility and of a parking area is necessary, so as to minimise the possible hazard caused by any future unloading and parking of damaged vehicles on the highway. Although SP Policy T8 and DLP Policy ED5 require the provision of on-site vehicle parking and servicing, the Council was unable to indicate the level of provision which would be sought. Under these circumstances, a planning condition could be imposed to require the submission of the details of a parking and unloading area for approval, and the subsequent laying out and retention of the area. I consider the provision of these facilities to be necessary even if the racking were removed, and it would therefore be necessary for the condition to relate to both schemes A and B.

25. The Council also suggested that landscaping of the site should be provided, including planting along the road frontages and on southern boundary of the site, in accordance with DLP Policy ED6. However, I consider that such planting would be uncharacteristic in this location and would not make any significant contribution to the appearance of the estate. In addition, given the nature of the commercial activities in the area and the regular manoeuvring of large vehicles, I have considerable doubt as to the long term survival of any landscape features. For these reasons I do not consider it necessary to impose a landscaping condition.

26. Subject to the conditions which I have discussed above, I do not consider that either scheme A or B would harm the appearance of the industrial estate and the surrounding area. I do not find that they would conflict with DLP Policy ED6.

The effect on working conditions and future employment prospects

27. The Council expressed concern regarding the proliferation of vehicle trades generally on the estate, and stated that the proposals would act as a disincentive to investment by other land owners. They also expressed concern that your client's activities were damaging the working environment of other occupiers, and that this could lead to the relocation of businesses out of the area with consequent damage to its employment base. These concerns apply equally to the applications for the use of the site and for the racking, as the racking allows for a more intensive use of the site and for potentially greater harm to the working environment.

28. In considering this issue, I am guided by the advice in PPG4, which is that the juxtaposition of incompatible land uses can cause problems for the occupiers of both the new and existing development. However, in the case of your client's activity, the Council did not produce any evidence to suggest that other occupiers on the estate are failing to invest or are considering relocation due to the effect of your client's business. In addition, I have not seen anything from the Council to suggest that the estate is experiencing high levels of vacancy.

29. Representations have been made regarding the proposals by a wide range of owners and occupiers of other properties on the estate. Whilst some of these have expressed concern at various aspects of your client's business, the majority have positively supported the use. Although a number of the letters in support come from those in vehicle related trades, who might be expected to benefit from your client's presence on the estate, other support has come from those unrelated to the motor trade.

30. No development plan policy has been drawn to my attention dealing with the proliferation of vehicle based activities. Accordingly, I am not persuaded that there is any evidence that either scheme A or B would be detrimental to the working environment on the industrial estate or would lead to significant harm to future employment prospects in the area.

Conclusion and decisions

31. I have considered the question of the imposition of conditions in the light of the advice in Circular 11/95. I have already discussed conditions dealing with parking and unloading areas, the enclosure of the site, landscaping, the height of the racking, and the prohibition of vehicle breaking, sales, repairs or auctions.

32. In addition, the possibility of conditions dealing with the submission of details of external lighting and oil storage facilities were discussed at the Inquiry. However, the schemes before me do not include external lighting or oil storage, and you made it clear that these are not part of your client's proposals. Under these circumstances, I do not consider that these matters relate to the applications before me, and I do not propose to include conditions to require the submission of such details.

33. I have taken account of all the other matters raised. However, I do not find any of these factors to be sufficient to outweigh the considerations which have led me to my decisions.

34. For the above reasons and in exercise of powers transferred to me, I hereby allow the appeal in relation to scheme A and grant planning permission for the continuation of the use of land at the corner of Kings Road and Romainville Way, Canvey Island for vehicle storage in accordance with the terms of the application (No CPT/141/96/FUL) dated 6 March 1996, and the plan submitted therewith, subject to the following conditions:

1. within a period of three months from the date of this letter, a scheme showing an unloading and parking area shall be submitted to the local planning authority for approval. The scheme as subsequently agreed by the Council shall be implemented within three months of date of that approval, and the unloading and parking area shall not thereafter be used for any other purpose;

2. within a period of three months from the date of this letter, a scheme showing the means of enclosure of the site shall be submitted to the local planning authority for approval. The scheme as subsequently agreed by the Council shall be implemented within three months of date of that approval;

3. no vehicle breaking, sales of vehicles or parts, vehicle repairs or vehicle auctions shall be carried out on the site;

35. For the above reasons and in exercise of powers transferred to me, I hereby allow the appeal in relation to scheme B and grant planning permission for the retention of tubular racking for vehicle storage on land at the corner of Kings Road and Romainville Way, Canvey Island in accordance with the terms of the application (No CPT/401/96/FUL) dated 17 July 1996, and the plans submitted therewith, subject to the following conditions:

1. within a period of three months from the date of this letter, a scheme showing an unloading and parking area shall be submitted to the local planning authority for approval. The scheme as subsequently agreed by the Council shall be implemented within three months of date of that approval, and the unloading and parking area shall not thereafter be used for any other purpose;

2. the racking hereby approved shall not exceed 4.3 metres in height.

36. An applicant for any consent, agreement or approval required by a condition of these permissions has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

37. The developer's attention is drawn to the enclosed note relating to the requirements of the Building Regulations 1991 with respect to access for disabled people.

38. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

Yours faithfully



Phillip Ware BSc DipTP MRTPI
Inspector

APPEARANCES

FOR THE APPELLANTS

Mr K Leigh - Of Counsel.

He called:

Mr D K Hickling - Director, The Planning Cooperative.
BSc DipTP MRTPI

FOR THE LOCAL PLANNING AUTHORITY

Mr J O'Connell - Solicitor, 56 Nicholson Road, Benfleet SS7 1RJ.

He called:

Mr I Burchill - Director of Planning, Castle Point Borough
BSc DipTP MRTPI Council.

DOCUMENTS

- Document 1 - List of persons present at the Inquiry.
- Document 2 - Council's letter of notification of the Inquiry and list of persons notified.
- Document 3 - Letters of representation received before the Inquiry.
- Document 4 - Letters of representation submitted at the Inquiry.
- Document 5 - Letter, dated 20 January 1997, from Essex Police Authority.
- Document 6 - HBC background statement, submitted by Mr Hickling.
- Document 7 - Committee report dealing with change of use application.
- Document 8 - Planning permission dated 26 June 1991 for land at King's Road.
- Document 9 - Planning permission dated 26 March 1985 affecting HBC's site west of Romainville Way.
- Document 10 - Appeals decision, dated 12 November 1996, relating to Fairford, Gloucestershire.
- Document 11 - Plan submitted by Mr Burchill showing proposed new road, retail site and development land.
- Document 12 - Appendices to Mr Burchill's evidence.

PLANS

- Plan A - Change of use application plan.
- Plans B/1, B/2 - Racking application plans.



Appeal Decision

Site visit made on 29 April 2013

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 May 2013

Appeal Ref: APP/M0933/X/12/2184048

Former Wilson Robinson Workshop, Hampsfell Road, Grange-over-Sands, Cumbria LA11 6BE

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mrs Dorothy Whitworth against the decision of South Lakeland District Council.
 - The application Ref SL/2012/0313, dated 17 April 2012, was refused by notice dated 25 July 2012.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is storage of vintage/classic cars (not domestic garaging).
-

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed use which is considered to be lawful.

Reasons

2. In the notice of refusal the Council amended the description of the proposed use to 'storage of vintage/classic cars by private individual for private use'. The appeal must, however, be based on the description in the application form.
3. The most previous use of the building, which is not within a residential curtilage, was as a workshop and the Council does not dispute that such a use falls within Class B1 (business). Class B of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (the GPDO) states that the change of use of a building in Class B1 (business) use to a Class B8 (storage and distribution) use is permitted development unless the building has more than 235 square metres of floor space. The appeal building has 150 square metres of floor space on two levels. Class B8 is defined in The Town and Country Planning (Use Classes) Order 1987 as 'use for storage or as a distribution centre'.
4. The Council maintains, in their notice of refusal of the application, that "The intended storage of vintage/classic cars by a private individual for private use is not a B8 (storage and distribution) use but is a sui generis use and therefore does not benefit from permitted development rights". The main issue, therefore, is does the 'storage of vintage/classic cars (not domestic garaging)' fall within Class B8 or is it, as the Council allege, a sui generis use.

5. The Council has referred to the inclusion of Class B8 "...within the commercial categories of Use Classes..." in support of their claim that this class is distinguished from residential and other use classes. The Council has implied this because there is no mention of 'commercial categories' or 'commercial uses' in The Town and Country Planning (Use Classes) Order 1987 (the 1987 Order). Part B of the 1987 Order has three sub-headings; 'Business', 'General Industrial' and 'Storage or Distribution'. Use Class B1 is under the 'Business' sub-heading and Use Class B8 is under the 'Storage or Distribution' sub-heading. So Use Class B8 encompasses all uses that can be classified as 'storage' or as 'distribution'.

6. Reference has been made to the judgement in *Newbury DC v SoS for the Environment* (1981) A.C.578, which states that "...storage does not have to be part of the businesses, and that as long as storage was the principal use it could be a B8 use". This part of the judgement is in line with the conclusion of the previous paragraph; that 'storage' is a use in its own right and need not be related to any other use. It is also worth noting the use of 'could' in the quote from the judgement. The use of 'could' implies, quite rightly, that a particular case must be judged on its own circumstances and on the specific character of the use.

7. The Council has stated that "Were this building to be used by a group of people, either commercial or private, for the storage of their collective vehicles this may be considered to fit within the B8 storage use". Who owns the vintage/classic cars and whether they have a commercial or private interest in keeping the cars in the building are not relevant considerations. It is the character of the proposed use of the building that is the only relevant consideration. The Council has speculated about what might occur following the future sale of the Appellant's dwelling, about how they would be likely to consider favourably a planning application for the change of use of the building following a favourable marketing exercise, and about other matters, such as creeping domestication. Speculation cannot influence a planning decision which must be made on the facts of the case.

8. The Council maintains that the building "...would be used in exactly the same way as a domestic garage...". A domestic garage is used to store a vehicle that is used on a regular basis and is ancillary to the dwelling to which it is attached or with which it is associated. Invariably this requires the garage to be within the curtilage of the dwelling or within the residential planning unit. In many instances domestic garages are used to store domestic items rather a vehicle but as long as the items are ancillary to residential occupation of the dwelling then there will have been no material change in the character of the use. A vintage/classic car, rather than a modern car, may be used on a regular basis but it is the use of the car that defines the use of the building where it is stored.

9. A domestic garage may be used to store a vintage/classic car but the garage would not then be in Class B8 use if the domestic garage is ancillary to a dwelling. All of the aforementioned scenarios relate to uses within single planning units. That is not the situation in this case. The Appellant owns two separate planning units; a residential planning unit and a currently Class B1 planning unit. The planning units adjoin each other but this is simply good fortune for the Appellant and is not a significant factor. The storage of vintage/classic cars (not domestic garaging), the proposed use of the building, is specific. It is not, furthermore, the items that are proposed to be stored that is significant. The significant factor is that the proposed use is 'not domestic garaging'.

10. If the building is used to store items that are not domestic, is not used for domestic purposes, and is not in ancillary use to residential occupation of a

dwelling, then it would be in a Class B8 storage use. The proposed 'storage of vintage/classic cars (not domestic garaging)' is just such a use. It is a Class B8 use and not a sui generis use.

11. The proposed change of use of the appeal building from Class B1 to the storage of vintage/classic cars (not domestic garaging), a Class B8 use, is development permitted by Class B of Part 3 of Schedule 2 of the GPDO. Any use of the building which is materially different from the 'storage of vintage/classic cars (not domestic garaging)' may result in a breach of planning control which is liable to enforcement action by the local planning authority.

12. For the reasons given the Council's refusal to grant an LDC for the storage of vintage/classic cars (not domestic garaging) at Former Wilson Robinson Workshop, Hampsfell Road, Grange-over-Sands was not well-founded and the appeal thus succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2010: ARTICLE 35

IT IS HEREBY CERTIFIED that on 17 April 2012 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The storage of vintage/classic cars (not domestic garaging) is a use that falls within Use Class B8 as defined in The Town and Country Planning (Use Classes) Order 1987. The change of use from Use Class B1 to Use Class B8 is development permitted, for a building of less than 235 square metres, under Class B of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995.

Signed

John Braithwaite

Inspector

Date: 15 May 2013

Reference: APP/M0933/X/12/2184048

First Schedule

The storage of vintage/classic cars (not domestic garaging)

Second Schedule

Former Wilson Robinson Workshop, Hampsfell Road, Grange-over-Sands,
Cumbria LA11 6BE

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



Plan

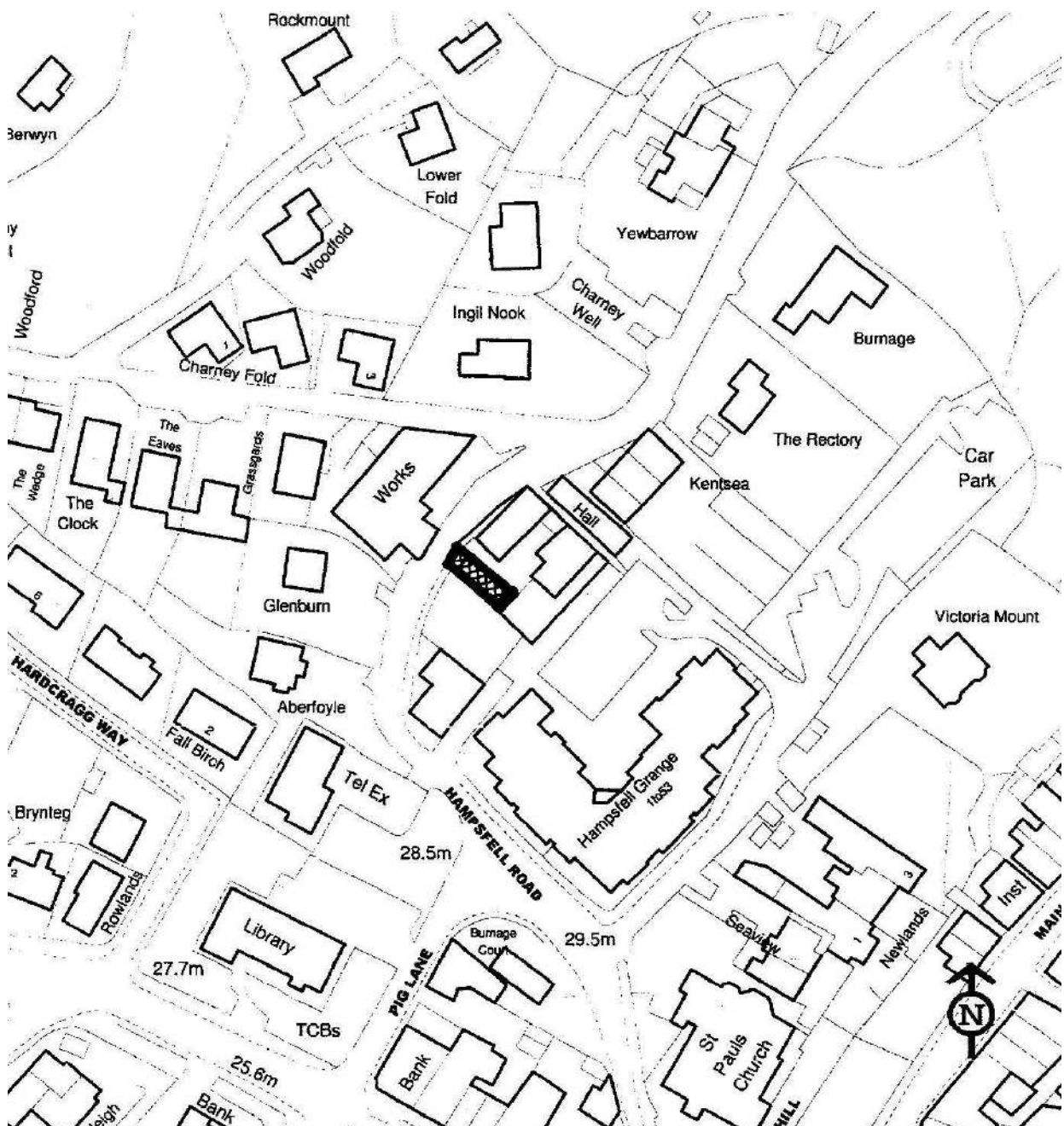
This is the plan referred to in the Lawful Development Certificate dated: 15 May 2013

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

Land at Former Wilson Robinson Workshop, Hampsfell Road, Grange-over-Sands, Cumbria LA11 6BE

Reference: APP/M0933/X/12/2184048

Scale: not to scale





Appeal Decision

Site visit made on 23 April 2019

by K R Seward Solicitor

an Inspector appointed by the Secretary of State

Decision date: 01 May 2019

Appeal Ref: APP/P1560/C/18/3204842

Station Forecourt, Weeley Railway Station, Clacton Road, Weeley, Clacton-on-Sea, Essex (also known as part of Old Goods Yard, Weeley Station)

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Cromwell Estates (UK) Limited against an enforcement notice issued by Tendring District Council.
- The enforcement notice was issued on 9 May 2018.
- The breach of planning control as alleged in the notice is:-
 - A. A material change of use from a use for the parking of cars by members of the public to use for the storage of vehicles.
 - B. As part of the said material change of use the associated construction as operational development of gates and fences partly enclosing the area used for the storage of vehicles as shown in the approximate positions marked with a T on the plan attached to the notice.
- The requirements of the notice are:-
 - A. Cease the unauthorised material change of use for the storage of vehicles
 - B. Demolish and remove the gates and fences in the approximate position marked with a T on the plan from the land.
 - C. Remove all resulting debris from Step B from the land
 - D. Remove from the land all vehicles stored on the land as part of the cessation of the unauthorised material change of use
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a),(c) &(f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is dismissed, and the enforcement notice is upheld.

Preliminary Matters

1. By the time of my site visit there were no vehicles on the appeal site and there was no other use taking place. The metal gates at the front of the appeal site had been reduced in height although the hinges and posts remained at their original height. The appeal falls to be assessed as circumstances stood at the time of issue of the enforcement notice.
2. Since the enforcement notice was issued the revised National Planning Policy Framework ('the Framework') has been published. It is this latest document which should be considered in the deemed planning application arising under the ground (a) appeal.

The appeal on ground (c)

3. The appeal on this ground is that the matters alleged in the notice do not constitute a breach of planning control. The onus is on the appellant under this ground of appeal to make out the case that there has not been a breach of planning control.

Change of use

4. It is undisputed that the appeal site previously formed the forecourt of Weeley railway station. The appellant points out that the registered land title describes the site as "Land at Old Goods Yard". Whilst this name suggests an historic storage use, the evidence does not support it being the last lawful use prior to issue of the notice. Indeed, no appeal has been brought on ground (b) on the basis that the breach as alleged has not occurred.
5. From the submissions, the appeal site was used by the public for parking in connection with the adjacent railway although the appellant contends that since 1993 part of the land was used to park up to three HGV's which reduced manoeuvring and parking space. Aside from this, it is acknowledged that the previous use was as a car park until the appellant's acquisition of the land from Network Rail in October 2016¹.
6. Since acquiring the site, the appellant confirms that it has been primarily used for the storage of vehicles. The appellant apparently owns the vehicles stored which are untaxed and without MOT. As part of the appellant's business those vehicles are repaired for sale in the UK or export. The three HGV's are no longer on the land. When the grounds of appeal were submitted around 20 cars were being stored.
7. Having regard to the Court of Appeal judgment in *Crawley BC v Hicknet Ltd*² the appellant accepts the concept that car parking and car storage are separate and distinct.
8. It is the appellants case that the storage of approximately 20 vehicles is *de minimis* and does not therefore amount to 'development' to be in breach of planning control. In other words, the appellant recognises that there is a change of use but not one that is material.
9. A change will be *de minimis* when it is on too small a scale for the law to take account of it. For there to be a material change of use, there needs to be some significant difference in the character of the activities from what has gone on previously.
10. A storage use falls within Class B8 of the Town and Country Planning (Use Classes) Order 1987. A car park does not fit within any category of use class and is therefore considered to be what is known as a *sui generis*³ use. Therefore, the use of the appeal site has changed from a *sui generis* use to a Class B8 use. It does not automatically follow that there must be a *material* change of use, but it is indicative.

¹ The Council says the purchase was in March 2017, but this is the edition date of the Official Copies. The transfer date is recorded in the Property register.

² [1998] 75 P&CR 500; JPL 210

³ Meaning of 'of its kind'

11. The appellant maintains that the storage in this case results in less noise and disturbance than a car park. There are far less starting and revving engines at regular intervals throughout the day and car doors are not frequently opened or slammed shut. As a car park, vehicular movements were frequent. They are fewer with the current vehicular storage. In terms of visual impact, the appellant accepts more cars are stored than could be parked with the need for space to open doors and manoeuvre. The appellant emphasises though that the cars are not "shoe-horned in" and all could be removed within a couple of hours or less.
12. Arguments that the existing development is less harmful than the previous use appertains to the planning merits of the ground (a) appeal rather than ground (c). However, those submissions do highlight some of the differences between the uses and how there would be differing effects on the character of the land.
13. I find the previous 'parking' of three HGV's on the site to be of no particular consequence when comparing the previous and current uses. The presence of HGV's will have reduced the space available for rail customers to park, but the lawfulness of the site for HGV parking has not been established. Plus, it will have affected part only of the site.
14. The current use now enforced against is not for the parking of vehicles but for their storage. To my mind there are inherently different characteristics between a car park used by commuters and as a drop-off and collection point than a vehicle storage use. A railway station car park may be expected to have much more daily activity with people and cars coming and going at times coinciding with rail traffic. There may be periods that a car park is empty when trains are not running whereas a car storage use is constant and static. So, aside from the greater concentration of cars present with the unauthorised use, the way that the land is used is also fundamentally different. These are not minor changes or ones that affect a small part of the site only that can be regarded as *de minimis*.
15. As a matter of fact and degree, I find that that there has been a material change of use requiring planning permission.

Gates & fencing

16. The notice alleges specific operational works in the form of fencing and gates as part of an unauthorised change of use from car parking to vehicle storage and its requirements concern removal of the operational works.
17. The appellant accepts that the gates attacked by the notice exceeded 2m in height and cannot therefore amount to permitted development by virtue of Article 3 and Class A of Part 2 to Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 ('the GPDO'). It is not accepted by the appellant that the fencing is in breach of planning control.
18. Class A permits the erection of a fence subject to certain conditions and limitations. Measurements taken at various points during my site visit by the Council and observed by the appellant's representative and myself identified the fence to be about 1.8m in height. Where a fence is constructed adjacent to a highway used by vehicular traffic it is not

permitted by Class A if it exceeds 1m above ground level. On the other hand, if the fence is not adjacent to a highway used by vehicular traffic then the limit is 2m above ground level and it would be within the parameters of permitted development.

19. It is undisputed that the station forecourt did not form part of the public highway. It is the status of the road leading to it which is in issue. The gates and fencing are erected up to the boundary between the forecourt and road. Contrary to what the appellant says, the Council has not accepted that the appeal site is not adjacent to the highway.
20. "Highway" is not defined in the GPDO for the purposes of Part 2. Section 336 of the principal 1990 Act defines the term by reference to the meaning within the Highways Act 1980. The interpretation section of the 1980 Act says "highway" means the whole or a part of a highway other than a ferry or waterway."
21. The surface of the road in front of the gates is the same as the road leading off Weeley Bypass. There is a double row of stones demarcating the end of the road and the start of the appeal site which has a different surface. Similarly, there is a double row of stones between the road and hard surfaced access leading up to the station entrance. These stones appear to denote a difference between the road and areas associated with the station. The road is clearly used by the public as a means of vehicular access to the station. The indications are that the road is probably a highway used by vehicular traffic.
22. In consequence the fencing which is adjacent to the highway would not be permitted development. This is by no means the entirety of the fencing. There is fencing at the front of the site which is adjacent to a landscaped area and to the side and rear where the land had been part of the station forecourt.
23. Nevertheless, *Murfitt v SSE*⁴ established that a notice directed at a material change of use may require the removal of works integral to and solely for the purpose of facilitating the unauthorised use, even if such works on their own might not constitute development, or be permitted development, or be immune from enforcement, so that the land is restored to its condition before the change of use took place.
24. The forecourt was previously accessible to the public without the constraint of enclosure. There is no dispute that the gates and fencing were erected after the appellant's acquisition and the timing coincides with the change of use to one of storage. There is no evidence before me that the works were undertaken for the purposes of a different and lawful use. The fencing fulfils the purpose of preventing public access to what is now a private storage facility.
25. It may be that the fencing comprises a physical means of defining the extent of the appellant's ownership. Be that as it may, it seems to me that it also performs the role of defining the physical extent of, and containing, the unauthorised use alleged in the notice. To my mind, the fence has a close functional relationship with that use to the extent that it is reasonable

⁴ [1980] JPL 5983

to regard it as being part and parcel of the vehicle storage use despite its dual role in delineating ownership boundaries.

26. This leads me to the view that the fencing is integral to the unlawful change of use. Article 3(5)(b) of the GPDO makes plain that the permission granted by Schedule 2 does not apply in the case of a connected use that is unlawful. I consider that this caveat applies here. As such, the fencing does not benefit from permitted development rights that might otherwise apply.

Conclusion of ground (c)

27. I conclude that the matters alleged in the notice do constitute a breach of planning control. The appeal on ground (c) fails.

The appeal on ground (a) and the deemed planning application

Main Issues

28. The main issues are the effect of the development on parking provision and accessibility of Weeley railway station.

Reasons

29. The appellant acknowledges that whilst relevant policies within the Tendring District Plan 2007 ('LP') are aged, they are not substantially in conflict with the National Planning Policy Framework ('the Framework') and substantial weight may be afforded to them.
30. The Council considers that the development adversely affects safe and convenient access for all persons to the railway station and does not allow for proper servicing and vehicle/cycle parking to be maintained at Weeley station.
31. Pedestrian and wheelchair access to the station are still available via a footpath. The Council's concern arises over the delivery and collection of users by vehicle for people of all abilities and the accessibility of the railway station for large emergency services vehicles.
32. Fencing has been erected around most of the former station forecourt. There is still a path for pedestrians to use protected in part by metal railings. A hard-surfaced strip remains beside the path leading up to the station entrance. This space is quite narrow. It would not allow emergency service vehicles to access the station if necessary due to the presence of the gate posts and fencing.
33. LP Policy TR6 specifies that proposals will be expected to provide or assist in providing and improving various matters including interchanges between rail, bus, taxi and other modes and accessibility to public transport services for people of all abilities. The policy is expressed to apply where a development will have transport implications as indicated by a Transport Assessment.
34. The appellant cites LP Policy TR1 as requiring a transport assessment for all major developments which are defined in the supporting text as those generating 50 or more passenger car units during the peak hour. As a vehicle storage use, the development does not generate that level of car movements.

35. However, LP Policy TR6 says a transport assessment will also be required for all smaller developments, which are considered likely to have transport implications. Where the Transport Assessment indicates that the development will have materially adverse impacts on the transport system, planning permission will be refused unless measures to reduce the impacts to acceptable levels are provided. 'Smaller developments' are not defined. By implication it must be those generating less than 50 or more passenger car units during the peak hour. Policy TR1 does not confine the requirement for a transport assessment to a particular type of small development. Nor does it specify that the transport implications must be those arising from traffic generated as a result of the use for which permission is sought.
36. The introductory text for TR6 explains that for those people without a car or mobility issues the availability of public transport is essential to promote social inclusion and enable these residents to participate fully in community life.
37. I consider that the development is likely to be causing transport implications by inhibiting access to the railway station for all users. Those implications have not been explored sufficiently through an assessment. Whilst I note that the appellant claims the footfall to the station to be relatively low which will be unaffected by the development, that has not been analysed in any detail.
38. The Council fears that without the ability to replace former facilities available there is a risk that use of the station will decline with the eventual loss of the facility. It points out that Weeley is currently designated as a sustainable location for further limited development in the Council's emerging Local Plan because it possesses good transport links including a railway station.
39. Whether or not there is a significant risk posed to the future of Weeley railway station from this particular development is not altogether clear without further assessment. Rail users complain that the change of use is having a negative impact on their use through lack of parking provision and turning facility. Such factors could deter users. Policy TR6 is clear in promoting the use of public transport. The potential impacts upon levels of use without parking, turning and accessibility for all have not been explored sufficiently for me to be satisfied that the development is policy compliant in these respects.
40. The requirements of LP Policy TR6 are reinforced by national policy which seeks development that promotes sustainable transport modes. This includes travel by rail. In particular, Paragraph 102.a) of the revised Framework requires transport issues to be considered at the earliest stages of development proposals so that the potential impacts of development on transport networks can be addressed. By Paragraph 108 of the Framework applications for development should ensure that appropriate opportunities to promote sustainable transport have been taken up given the type of development and its location.
41. The Council quotes LP Policy COM1 which provides that development involving buildings or spaces to which the public will have access as visitors, customers or employees will not be permitted if the design and layout does not provide safe and convenient access for people of all

abilities. The deemed planning application is for the vehicle storage use. It is not for a car park accessible by the public. The policy does not therefore apply.

42. LP Policy QL10 sets criteria which must be met or be shown not to apply to ensure that all new development meets functional requirements. This policy concerns matters such as access to and circulation within the site and how the development itself is laid out and functions. There is no issue raised regarding how the appeal site itself functions to indicate that the policy is contravened. It is the impact of the use upon the accessibility of neighbouring land and the availability of parking in connection with that neighbouring use. Those are not matters captured by the policy.
43. Draft Policy SPL 3 of the Tendring District Local Plan 2013-2033 says that new development (including changes of use) should be compatible with surrounding uses. However, the criteria that follows addresses matters such as environmental impacts and effects on living conditions. It does not extend to the type of matters raised in this appeal. In any event, the emerging plan is still subject to examination and it could be subject to change. It therefore carries limited weight only.
44. The appellant considers the most relevant policy to be LP Policy ER7. The policy sets out eight criteria to be met for the change of use to business, industrial or warehousing sites. The appellant asserts that the vehicle storage use is fully compliant with all criteria. The Council has elected not to address these points placing reliance instead upon the policies which it considers to be offended.
45. However, interested third parties have raised issues pertinent to criteria b. of Policy ER7 which requires there to be no unacceptable impact on amenity in terms of matters including appearance. Weeley Residents Association describes the station approach as "a total mess of a scrap yard" and another resident refers to it as an "eyesore".
46. The appellant accepts that the stored vehicles may not be roadworthy but claims that to the casual observer the cars are whole. If the use were to be allowed, then the vehicles stored could be in any condition. Even if cars appear whole, the fact they may not be roadworthy is indicative of their likely condition. In my judgement 20 or so cars which may not be roadworthy packed closely onto the site will invariably have a significant adverse effect on the appearance of the area. This is a prominent location occupying the former station forecourt where it is fully on display to those entering and leaving the station. It will hardly create a good impression of the area. Whilst it is adjacent to another site used for the storage and repair of vehicles, that site is not in such a prominent location. It is nowhere near as apparent.
47. Therefore, I am not satisfied that the development does comply with all criteria within LP Policy ER7 as there will be an unacceptable impact on amenity in terms of appearance contrary to criteria b.
48. Third parties raise several other matters. These include comments regarding the impacts arising from a lack of parking provision at the station. During my site visit I observed a motorist pull up to the gates, drop off passengers for the station before reversing down the road. The road is

relatively narrow. It is not wide enough for cars to park whilst still allowing access for others to pass.

49. Vehicles reversing will do so not far from the turn into The Street where the road goes under the railway bridge and visibility is limited. They will also be near to the access for the neighbouring caravan park. The lack of space to manoeuvre safely adds to my concerns over the impacts of the unauthorised development.
50. I find that there is a significant adverse effect from the development on the accessibility of Weeley railway station contrary to LP Policy TR1. There is also conflict with Paragraphs 102.a) and 108 of the revised Framework. In the absence of further assessment, I cannot be satisfied there is no conflict with the aforementioned policies in terms of the effect on parking provision.

Other considerations

51. To a large degree the Council's legitimate concerns arise as a symptom of the land not being under the control of the rail operator. If the unlawful storage use ceased and the fencing and gates removed, there would be no physical obstruction to the station. Even so, the public would still not have use of the appeal site for parking and access purposes without landowner consent. Whilst the public could use the car park previously, the land is in private ownership and it is up to the landowners whether they choose to operate a car park. An enforcement notice cannot require a former use to resume. Thus, there is no guarantee that a car park would re-open or that it would be available to members of the public.
52. The appellant argues that the current use gives rise to less disruption and harm to neighbouring amenity from the moving and parking of vehicles. In all likelihood there will have been a regular turnover of vehicle movements from the car park use and the collection and drop-off of rail passengers. This may have caused more frequent noise from engines starting, doors slamming and cars manoeuvring than a storage use. However, given the limited space available for parking this seems unlikely to have been excessive or untypical of vehicular activity to be expected in the vicinity of a railway station. It seems to me that the fluctuating numbers of vehicles being parked is likely to have less visual impact on the surroundings than a more constant and higher density of vehicle storage. Even if a condition was imposed to limit the number of stored vehicles it would not address the issues of accessibility and parking provision.
53. It is further argued that if there was a need of car parking or drop-off points at the station then the appeal site would not have been sold. As the full circumstances are unclear, I do not find this to be a compelling point.
54. I understand that there are bus stops not too far away from the station. The provision of a bus service may assist some who would otherwise rely upon the car, but the regularity of the service is unclear. Moreover, it will not assist those unable to get easily to and from the bus stop. Without further details, the availability of a bus service is of limited weight only.
55. The appellant submits that the use enforced against puts the site in productive use and it is illogical that money would be spent to upgrade Weeley Station to encourage greater use when Network Rail has sold the

appeal site. Whether or not any future improvements will take place is unknown. These are not reasons to grant planning permission for harmful development.

Planning balance

56. The change of use to a storage use and facilitating development is not in accordance with the development plan. It is also contrary to national policy in the revised Framework. Having balanced the other considerations identified in favour of the development, I do not consider that they negate or outweigh the policy conflict identified.

Conclusion on ground (a) and the deemed planning application

57. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal on ground (a) and the application for deemed planning permission should not succeed.

The appeal on ground (f)

58. The ground of appeal is that the steps required by the notice to be taken are excessive.

59. Section 173 of the Act indicates that there are two purposes which the requirements of an enforcement notice can seek to achieve. These are either to remedy the breach of planning control which has occurred (section 173(4)(a)), or to remedy any injury to amenity that has been caused by the breach (section 173(4)(b)).

60. In requiring cessation of the use and removal of the gates and fencing it is clear the Council seeks to remedy the breach.

61. The appellant considers the notice to be excessive when the gates and fencing could be reduced in height to come within the parameters of Schedule 2, Part 2, Class A of the GPDO. However, permitted development rights do not apply retrospectively. Nor is the appellant being deprived of his existing rights under the GPDO for the reasons explained in my consideration of ground (c).

62. Remedy of the breach could only be achieved by removal of the fencing and gates. Given that the notice does no more than seek to achieve the purposes of section 173(4)(a), it is not excessive.

63. There is no obvious alternative that would overcome the planning difficulties. I consider that the requirements of the notice in this case do not exceed what is necessary to remedy the breach. Nothing in the requirements prevent the appellant from doing what he is lawfully entitled to do in the future after he has complied with the notice.

64. The appeal on ground (f) fails.

Formal Decision

65. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

KR Seward

INSPECTOR