

SUMMARY OF PROOF OF EVIDENCE

Prepared by Talent Masuku

**Appeal against Enforcement Notice (s.174 of the Town Country Planning Act 1990 as
(amended))**

**Appeal against the issuing by Rochford District Council of an Enforcement Notice
dated 28th August 2019**

Appellant:	Mr Aarun Archer
Site address:	Land at The Yard, Murrels Lane, Hockley, Essex, SS5 6AB
Planning Inspectorate appeal reference:	APP/B1550/C/19/3237992
Rochford District Council case reference:	18/00151/COU_C
Identified breach of planning control as per enforcement notice:	<p>Without planning permission;</p> <ol style="list-style-type: none"> 1. The material change of land and buildings from a general industrial (Class B2) use to a mixed use of general industrial (Class B2) use and the siting of a mobile home (marked MH on the attached plan) and its use for human habitation. 2. The erection of a steel palisade fence and double gates with a barbed and razor wire top trim. (Marked A to B on the attached plan).

The Appeal

1. The Council issued an Enforcement Notice at the above site on the 28th of August 2019 stating the following breaches of planning control had occurred:

Without planning permission,

1. The material change of land and buildings from a general industrial (Class B2) use to a mixed use of general industrial (Class B2) use and the siting of a mobile home (marked MH on the attached plan) and its use for human habitation.
 2. The erection of a steel palisade fence and double gates with a barbed and razor wire top trim. (Marked A to B on the attached plan).
2. The appeal is to be considered by the public inquiry procedure. The appellant has appealed on grounds (a), (d) and (g)

The appeal site, its location and planning history

3. A summary of the full planning history for the site and details of the site location and its context is given in the statement of case and proof of evidence.

The Development Plan and National planning policy

4. Details of the Council's relevant policies and reference to the NPPF are provided in my proof of evidence

THE ISSUES IN THIS APPEAL

Ground (a) of appeal – that planning permission should be granted for what is alleged in the notice.

5. The development being considered under this ground of appeal is the development in its entirety as is outlined on the enforcement notice. The appellant submits their appeal on ground (a); that, in respect of the breach described on the enforcement notice; planning permission should be granted for the siting of a mobile home and its use for human habitation and the erection of a steel palisade fence and double gates and a barbed razor wire top trim. This is as set out in the statement of case submitted 17th August 2020. A further statement submitted 23rd November 2020 withdraws the

appellants reliance of the Turner case as well as the green belt argument. The appellant's position was then revised as follows:

- a) additional units of housing supply
 - b) the lack of a five-year housing land supply
 - c) failure of policy, and
 - d) the security of the premises.
6. The Council's case remains as submitted within its statement of case. As the site is located within the Green Belt, as identified in the Council's adopted Allocations Plan (2014), the proposal needs to be assessed against local and National Green Belt policies.
 7. The mobile home and the erection of the palisade fence on the appeal site presents a form of development at odds with the rural character of the area.
 8. Rochford District Council Core Strategy 2011
 - i. Policy GB1 '*Green Belt Protection*' states that the Council will direct development away from the Green Belt as far as practicable but where proposed development would encroach upon the Green Belt the protection of land would be prioritised based on how well the land helps achieve the purposes of the Green Belt.
 - ii. Policy GB2 '*Rural diversification and recreational uses*' provides that the Council will maintain a restrictive approach to development within the Green Belt.
 - iii. Policy CP1
 9. Rochford District Council Development Management Plan 2014
 - i. Policy DM1
 10. National Planning Policy Framework 2021
 - i. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. 'Openness' broadly means an absence of buildings or development, regardless of how obtrusive or screened they may be. The case of R (Lee Valley Regional Park Authority) v Epping Forest DC [2016] EWCA Civ 404, Treacy, Underhill, Lindblom LJJ held that it is not necessary for development to be visible to harm openness.
 - ii. The onus is on the appellant to submit all the necessary information to the authority to demonstrate the merits of the development and how it complies with both national and local planning policy, along with identifying and promoting all the benefits of the development and any very special circumstances that may exist.

- iii. The appellant has not been forthcoming in providing a substantial case to expand on the 4 elements which their case is based on. That is additional units of housing supply; the lack of a five-year housing land supply; failure of policy, and the security of the premises.
- iv. On this basis and taking into consideration the merits of the development and applying both national guidance and local planning policy, I am of the view that the ground a) appeal should fail.

Ground (d) of appeal - that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters

- 11. The Council has not been furnished with the appellants evidence relating to this ground of appeal. Referring to the Council's evidence, there is no evidence that is held and has been submitted that supports a continued 10 year mixed use of general industrial (Class B2) use and the siting of a mobile home and the steel palisade fence and double gates with a barbed and razor wire top trim has not been in place for a period exceeding 10 years.

Ground (g) of appeal - that the time given to comply with the notice is too short.

- 12. The the compliance period is considered to be reasonable and proportionate. In the timescale stated on the notice; the appellant should be able to procure a new suitable site; obtain planning consent if needed. Therefore, the appeal on ground f) should fail.

Conclusion

The negative impact on the openness of the area through the creation of a new dwelling, albeit a mobile home, with associated domestic paraphernalia plus the palisade fence where previously there was none and there being no justification for their being a fulltime watchman needing to be present on the site for the functional need of the business, has created a form of development that is unacceptable. No very special circumstances exist to outweigh the harm caused and on this basis planning permission should not be granted and the Inspector is respectfully asked to dismiss the ground a) appeal.

The evidence which I have prepared and provide for these appeals is true and I confirm that the opinions expressed are my true and professional opinion.



Signed.....

Dated: 14th October 2022