TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) – APPEAL UNDER SECTION 78 AGAINST REFUSAL OF DC/24/0190

RESPONSE TO THE COUNCILS STATEMENT OF CASE IN RELATION TO THE PROPOSED VARIATION OF CONDITIONS 9, 10 & 13 OF PLANNING PERMISSION REFERENCE DC/23/0578

AT

LOWER BROADBRIDGE FARM, BURY HILL LANDSCAPE SUPPLIES, BILLINGSHURST ROAD, BROADBRIDGE ROAD, BROADBRIDGE HEATH, WEST SUSSEX RH12 3LR

PREPARED BY:

[redacted]

ON BEHALF OF BURY HILL LANDSCAPES LTD

NOVEMBER 2024

STATEMENT OF CASE

Introduction

1. This statement seeks to respond to the Local Planning Authority's (LPA) Statement of case dated 22nd October 2004 with regard to the above appeal following the refusal of proposed amendments to Conditions 9, 10 and 13.

2. In their statement the LPA have not provided any evidence as to why they have refused the proposed amendment to Condition 9 on odour or dust grounds. Indeed, as set out in the Appellants statement of case none of their business activities emit odorous emissions and to their knowledge no complaints on this have ever been made. Consequently, they remain bemused as to why this concern as been raised and used as a reason for refusal. Equally the LPA have made no reference to the Dust Management Plan (Condition 8) that they have already approved again as mentioned in the Appellants appeal statement. Since its approval and implementation to the knowledge of the Appellants no complaints have been made with regard to dust and consequently the monitoring team of the LPA have had no cause to visit the site regarding this issue. For the avoidance of doubt and for the attention and information of the Inspector the dust monitoring scheme is attached to this response. It is considered that the dust prevention measures contained within it are robust.

3. With regard to the refusal of Conditions 10 and 13 on noise grounds the response of the LPA was referred to the Appellants expert acoustic witness for comment. The Inspector is therefore referred to the Technical Note of [redacted] WBM acoustic consultants dated 7th November 2024 within which he reinforces the point that the amenity of local residents is already protected by Condition 5 of the core permission and consequently should this limit be exceeded the LPA would be able to take enforcement action against the site, but based on the scientific information available this should not be necessary. Further he comments that the protection of local amenities is still achieved under the proposed revised wording of the conditions by the site limit contained in Condition 5 that can be enforced if necessary. Notwithstanding, if it is the case that the LPA remain concerned about tonal character he has advised that the site noise limit could be altered to allow for the limit to relate to a Rating Level (including any required character corrections).

4. It is therefore contended that the LPA has not raised any reasonable justification as to why they cannot exert planning control over the operations using planning conditions that they have already imposed on the development and that accordingly that the refusal was unjustified, did not accord with Government Policy, the Development Plan and National Planning Guidance and it is accordingly requested that this Appeal should be allowed.

[redacted]

Planning Agent 08.11.24