

PROOF OF EVIDENCE OF
ROY DAVID COLEY

ENFORCEMENT NOTICE APPEAL REFERENCE APP/X2410/C/24/3347294
LOCAL PLANNING AUTHORITIES REFERENCE E/18/0476

Land adj Moor Lane, Loughborough,
Leicestershire

Local Planning Authority: Charnwood Borough Council

Appellant: Mr and Mrs Gallagher

1. PERSONAL DETAILS

- 1.1. My name is Roy David Coley. I am Chairman and Managing Director of the Sowden Group of Companies and have held this position for over 40 years.
- 1.2. In my role at Sowden I have been heavily involved in many commercial and residential development projects including major schemes such as the Highcross Shopping Centre in Leicester; Castle Wharf in Nottingham (offices for NatWest, BT and Nottingham Evening Post); a 1,000 Bed Student project for Opal Group; A 300 flat PRS Scheme for Long Harbour; Offices in Leicester for the Benefits Agency, Mattioli Woods, Barclays Bank and Cadent together with supermarkets for Asda and Safeway and a further office development at Pioneer Park, Leicester
- 1.3. The evidence which I have prepared and provide for this appeal reference PP/X2410/C/24/3347294 in this proof of evidence is true and I confirm that the opinions expressed are my true and professional opinions.
- 1.4. My proof of evidence sets out the factual history of the site known as Land off Moor Lane, Loughborough (“the Site”) that is the subject of the enforcement notice issued by Charnwood Borough Council on 29 May 2024.

2. FACTUAL HISTORY OF SITE

- 2.1. As set out in my statutory declaration dated 2 August 2023 (CD4.3.1), Sowden purchased a site known as Windmill Road, Loughborough in 2003. The Appellants owned two parcels of adjoining land, one of which is the site that is the subject of the enforcement notice. It was agreed between the Appellants and me that a joint planning application for development of the company owned land and the parcels owned by the Appellants would be made.
- 2.2. The Appellants operated a scrapyards business on their parcels of land, including the Site and a purpose of the joint planning application was to enable funds to be raised to relocate the Appellant’s business to an alternative location.
- 2.3. It took until December 2013 to secure planning permission for the development of the company’s land and the parcels owned by the Appellants. It was necessary for a section 106 Agreement to be completed before permission was granted. This was duly entered on 16 December 2013 (CD4.3.7).
- 2.4. The company began undertaking ground works involving the levelling of the ground on the Site as well as ground works on the company owned land in May 2014. Attached to my statutory declaration (CD4.3.1) is a copy of the letter I sent to the Council dated 2 May 2014 informing the Council that development had commenced, as required by the section agreement (clause 6).
- 2.5. The works undertaken at the Site included the demolition of buildings, the removal of concrete surfaces and the levelling of surplus inert materials from both the Site and a small amount from the company’s site.
- 2.6. The change in all three parcels of land can be seen from a comparison of the Google Earth images from September 2011 (Appendix 1 to this Proof) and March 2015 (Appendix 2 to this Proof).

- 2.7. Attached to my statutory declaration are also photographs from June 2015 (RC3) showing the works ongoing.
- 2.8. By November 2015, we had effectively completed the levelling works on the Site. The photographs in RC5 dated 3 December 2015 and the video from December 2015 (CD4.5) show this.
- 2.9. The Google Earth imaged from April 2016 (Appendix 3 to this Proof) shows how the Site was left. All trees and vegetation removed from the Site had been done so by that point in time.
- 2.10. The Site was then left until the Council approached the company and the Appellants in November 2018. A meeting was held on site on 23 November 2018. The Council subsequently issued a letter dated 2 January 2019 (CD5.2.6).
- 2.11. In this letter the Council identified that the levels had been increased on Site as the Council had undertaken its own measurements on Site. Although the Council took those measurements, it is unclear why the Council has not released the full details of those measurements. The Council also referred to the fact that it was not disputed that the Site had been cleared and debris distributed around it in 2015.
- 2.12. The letter dated 20 May 2019 from the Council (CD5.3.2) also demonstrates that, in May 2019, the Council was fully aware of the change in levels at the Site.
- 2.13. At that point in time, the Council clearly knew and understood that levelling works had been undertaken at the Site before November 2018 and, in fact, it was not disputed that those works were undertaken in 2015.
- 2.14. In 2019 we had concerns with fly tipping and access to the Site by gypsy and travellers. We were also aware of concerns from the Environment Agency as to the spoil heap within the Site. As a result, we created a security bund using the spoil heap.
- 2.15. The form of the bund was of a shallow gradient on one side to ensure access by vehicles could not be achieved. If a more traditional bund was used, it is common for vehicles to push through it to breach it; a shall gradient on one side prevents this happening.
- 2.16. The creation of the bund and removal of the spoil heap was completed in July 2019.

3. SUMMARY AND CONCLUSIONS

- 3.1. I consider the factual position to be very clear here:
 - 3.1.1. Between May 2014 and December 2015, the ground levels were raised at the Site using inert materials from the demolition of buildings, the removal of concrete surfaces and some arisings from the company's land.
 - 3.1.2. No works were undertaken at the Site from well before the BWB survey in July 2018 until spring/summer 2019;
 - 3.1.3. Works comprising the removal of the spoil heap and creation of the security bund were completed in July 2019;
 - 3.1.4. No works have been done on the Site since then.

APPENDICES

- 1. Google Earth image September 2011**
- 2. Google Earth image March 2015**
- 3. Google Earth image April 2016**