

# STATEMENT OF CASE

**Appeal against decision of Charnwood Borough Council to issue  
Enforcement Notice ref: E/21/0183**

**Land at Syston Mill, Mill Lane, Syston, Leicestershire, LE7 1NS**

**Town and Country Planning Act 1990**

**Section 174**

<b>APPELLANT</b>	WEALTH PROPERTY LIMITED
<b>SITE ADDRESS</b>	LAND AT SYSTON MILL, MILL LANE, SYSTON, LEICESTERSHIRE, LE7 1NS
<b>APPEAL REFERENCE</b>	APP/X2410/C/24/3354976 & APP/X2410/C/24/3354977
<b>LPA REFERENCE</b>	E/21/0183
<b>DATE</b>	8 <sup>th</sup> JANUARY 2025



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## Contents

## Page

1. Introduction	3
2. The Site and Surroundings	6
3. Planning History	9
4. The Planning Unit	12
5. Grounds of Appeal	14
6. Ground (a) Planning Policy Context and Considerations	20
7. Summary	22

## Appendices

- Appendix 1 - Enforcement Notice E/21/0183
- Appendix 2 - Site Location Plan in Enforcement Notice E/21/0183
- Appendix 3 - Council's map showing area of alleged breach
- Appendix 4 - Appellant's Parcel ID Map
- Appendix 5 - Mr David Knapp's Statutory Declaration
- Appendix 6 - Decision Notice P-00-2521-2
- Appendix 7 - Existing Site Plan P-00-2521-2
- Appendix 8 - Case Officer Site Notes P-00-2521-2
- Appendix 9 - Flood Risk Assessment
- Appendix 10 - Transport Assessment
- Appendix 11 - Preliminary Phase 1 Risk Assessment



## 1. INTRODUCTION

- 1.1 This Statement of Case has been prepared by Marrons on behalf of Wealth Property Limited (the “Appellant”) in respect of an Enforcement Notice (the “Notice”) issued by Charnwood Borough Council (the “Council”) reference number ref: E/21/0183 dated 23<sup>rd</sup> September 2024 (the “Notice”) (Appendix 1).
- 1.2 The Council issued the Notice relating to breaches of planning control (within the meaning of paragraph (a) of Section 171A (1) of the Town and Country Planning Act 1990).
- 1.3 The Notice relates to “Land at Syston Mill, Mill Lane, Syston, Leicestershire, LE7 1NS” (the “Site”). The Notice refers to an attached plan which identifies a single site “shown edged and shaded red” comprising the majority of the Appellants’ land holdings (Appendix 2). Paragraph 3 of the Notice describes the entire site as being in “sui generis use”.
- 1.4 The alleged breach of planning control as set out in the Notice (Paragraph 3) is that:
- “without planning permission the material change of use of land and buildings, from industrial and agricultural use to sui generis use including industrial, agricultural, residential (building conversion and caravan), vehicle sales, MOT station, vehicle repairs and servicing, vehicle restoration, vehicle body repairs, storage, tyre fitting, siting of caravans and portable structures/buildings, storage, manufacturing and retail; and facilitating development including the installation of fencing, hardstanding, closed circuit television, lighting and ground works”.*
- 1.5 Paragraph 4 of the Notice sets out eight reasons for issuing the Notice, which are summarised below and set out in full in the Notice:
- Reason 1: Breaches have occurred within last 10 years, material change of use and other facilitating development.
  - Reason 2: Land is within the countryside and there are no exceptional circumstances which justify over-riding planning policy.
  - Reason 3: Appearance of the development is visually harmful to the character and appearance of its rural surroundings.
  - Reason 4: Residential incursion in the countryside would likely encourage similar residential development.
  - Reason 5: There has been a net loss in biodiversity due to nature of activity and its continued extension into habitat areas.
  - Reason 6: The land is within Flood Zone 3a and 3b and there is potential for flooding.
  - Reason 7: There is potential for contamination due to the nature of activity.
  - Reason 8: There are potential highways safety issues caused by the current design of the junction of Mill Lane with Fosse Way; and for pedestrian using the underbridge.



- 1.6 Paragraph 5 of the Notice sets out a number of steps (27 in total) that are required to be undertaken by the Appellant, with timeframes stipulated at paragraph 6 of the Notice.
- 1.7 Steps 21 to 23 inclusive refer to elements which need to be removed and which are “*shown purple on the plan attached to Appendix 3*”. In preliminary discussions with the Council, it accepts that reference to a purple line is an error in the Notice and the reference should have been made to the green line and not a purple line.
- 1.8 Steps 25 to 27 all contain errors in the number referencing and refer “to step 25 above”, when this should be “step 24 above”.
- 1.9 Step 26 requires all new planting to be “*maintained.... for a period of 5 years from the completion of planting*”, however Step 27 requires that the new planting “*be monitored for growth and establishment for a period of:*
- A) *Trees 30years*
  - B) *Bushes and shrubs 10 years*
  - C) *Grasses 5 years*
- 1.10 Paragraph 6 (Time for Compliance) then adds a further 15 months on top of the timeframes provided at Step 26 A and B and this has given rise to additional ambiguity in relation to timeframes.
- 1.11 A set out in the Grounds of the Appeal, the Appellants case is made on the following grounds:
- Ground (c): that those matters (if they occurred) do not constitute a breach of planning control.
  - Ground (d): 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 matter.
  - Ground (b): that those matters have not occurred.
  - Ground (a): that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged.
  - Ground (f): that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
  - Ground (g) – that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.
- 1.12 The Appellant considers that the Notice is misconceived in its approach. The Notice erroneously treats the whole of the site as a single planning unit in alleging a single “*sui generis use*”. This is not correct. The site encompasses a number of separate planning units, applying the principles in the decision of *Burdle v Secretary of State for the Environment* [1972] 3 All E.R. 240.



- 1.13 Notwithstanding the Appellant's position that the Notice is wholly misconceived in its approach and ambiguous, the Appellant agrees to comply with a number of steps within the Notice with regards to Parcels 102, 104, 105, 106 as shown on the Appellant's Parcel ID Map at Appendix 4 of this Statement.
- 1.14 The Appellant will cease all uses associated with Parcels 102, 104, 105 and 106 and will, in essence, "*reinstate the land to its former condition and in accordance with the year 2000 aerial photograph*" as set out at Step 24 of the Notice. The Appellant will, as required inform the Council once this has been completed. The Appellant has instructed competent ecologists (Estrada Ecology) to assist with this process.
- 1.15 It is however concluded that the timeframes for compliance as set out in the Notice are too short for such a significant amount of work and that a longer period should be applied.
- 1.16 The Appellant will also cease the use of Parcel 103 (that being parcels 103A and 103B together) for the sale of motor vehicles but will conclude that the hardstanding is in fact lawful having been in place for over 10 years as evidenced in the Statutory Declaration of Mr David Knap (Appendix 5). The Appellant will seek planning permission for the use of Parcel 103 for the storing and parking of motor vehicles under Ground (a).



## 2. THE SITE AND SURROUNDINGS

### *The land subject to the Enforcement Notice*

- 2.1 The land subject to the Enforcement Notice is known as “Land at Syston Mill, Mill Lane, Syston, Leicestershire, LE7 1NS”.
- 2.2 The Land comprises the former “Syston Mill”, a complex of industrial, warehouse and office buildings; areas of hardstanding, areas for the storage, parking, and sales of motor vehicles; and parcels of agricultural land, all located to the north-west of the town of Syston in the south of the administrative area of Charnwood Borough Council.
- 2.3 The land to which the Council’s Enforcement Notice relates extends to 7.55ha. The Council’s questionnaire (in response to Question 6), however, states that the alleged breach relates to 2.4ha. This point has been clarified through preliminary discussions on the Statement of Common Ground and the Council has revealed that the area where the alleged breach of planning control is considered to have occurred is that shaded blue on the map provided by the Council at Appendix 3 of this Statement. That land can be separated into the “Mill Complex”, which is a set of established buildings and land to the north of the River Wreake tributary and “the land to the immediate south of the watercourse”.
- 2.4 The Mill Complex is surrounded by the River Wreake to the north and northwest, the railway line to the east and the River Wreake subsidiary watercourse to the south. A bridge allows access over the watercourse. To the immediate south of the water course, the land includes areas of hardstanding used for general car parking, vehicle storage and vehicle sales. Beyond these parcels of land to the south, the site is agricultural land and not in use by the Appellant. The A46 is to the north and west, with Meadow Lane beyond the site to the south.
- 2.5 The land is accessed via Mill Lane, a private road off Fosse Way. Mill Lane continues over the bridge within the Site and loops around the Site to the north of the water course. The land can also be accessed by way of public footpath no. 156 which leads from the railway bridge through the fields on the eastern side of Mill Lane and across the bridge over the watercourses.



- 2.6 To the east of Mill Lane and south of the watercourse is land and buildings associated with a scaffolding business. This area does not form part of the appeal.
- 2.7 The land is located within the countryside and is in Flood Zones 2 and 3.
- 2.8 The land is previously developed land.
- 2.9 There no statutory or locally listed buildings on the site and it is not within or adjacent to a Conservation Area.
- 2.10 Within the alleged breach area there are a number of existing units and/or parcels of land which are set out in Table 1 below and are shown on the map provided by the Appellant at Appendix 4.

<b>The “Mill Complex”</b>		
<b>Address</b>	<b>Notes</b>	<b>Use</b>
Unit 7	Building in use as car repair workshop.	B2
Unit 7A	Building vacant and was used for storage of slate and felt materials and car repair workshop.	B8/B2
Unit 20	Building vacant and was used for storage of roofing materials and historically, a car mechanic workshop.	B8/B2
Unit A, C and Lean-to	Building in use as car repair workshop.	B2
Unit B1	Building in use as car repair workshop.	B2
Unit B2	Building is vacant and was used as car repair workshop.	B2
Unit E1	Building in use as car paint workshop.	B2
Unit E2	Building in use as car repair workshop.	B2
Unit D	Building in use as car repair workshop.	B2
Unit 10	Building is vacant and has been historically used as offices.	E
Unit 22 – 1 <sup>st</sup> Floor	First Floor vacant and was used as office/industrial/storage.	E, B2/B8
Unit 22 - Ground	Ground floor in use as car showroom/sales office and workshop by E-Lease Ltd (trading as ‘wesellanyvans.com’).	Sui Generis
Parcel 107 A	External parking area used as hire, sales and/or displaying of motor vehicles by E-Lease Ltd (trading as ‘wesellanyvans.com’).	Sui Generis
Parcel 107 B	Currently vacant (as of late 2024) and was used as hire, sales and/or displaying of motor vehicles by E-Lease Ltd (trading as ‘wesellanyvans.com’).	Sui Generis
Unit F	Temporary Sales Office associated with Unit 22 (Ground) and Parcel 107A.	Sui Generis
Unit 16	Building is vacant and was used for industrial steel fabrication and offices.	E, B2
Unit 17A	Building is vacant and was used as car repair workshop.	B2
Unit 17B	Building is vacant and was used as car repair workshop.	B2



Unit 17C	Building is vacant and was used as car repair workshop.	B2
Unit 18	Building in use as car repair workshop.	B2
<b>Land to the south of the watercourse</b>		
Parcel 101	Land in use as parking area.	Sui generis
Parcel 102	Land in use as car storage and selling/display of motor vehicles.	Sui generis
Parcel 103 (A and B)	Land in use as car storage and selling/display of motor vehicles.	Sui generis
Parcel 104	Land in use as car storage and selling/display of motor vehicles.	Sui generis
Parcel 105	Land in use as car storage and selling/display of motor vehicles.	Sui generis
Parcel 106	Land in use as hardstanding, storage and parking of motor vehicles.	Sui generis

**Table 1: Units and land parcels within the alleged breach area**

2.11 The Council's Enforcement Notice identifies the land within the entire red line as one, sui generis unit. Table 1 above and the Grounds of Appeal clearly identify a number of different units of business and this will be discussed within Section 4.

### *Surrounding context*

2.12 To the immediate north of the junction of Mill Lane and Fosse Way are the buildings and land associated with "George Walker Building Merchants". To the east of this is an industrial complex centred on "Half Croft Way", which includes Pukka Pies and several car repair/repainting businesses and this industrial landscape continues to the east. To the south of the junction, there is a recycling centre (Smith's Metal Recyclers) on Fosse Way which extends to the west and includes a number of buildings and hardstanding.

2.13 The town of Syston is to the south and south-east of the Site, a 3-minute car journey or 22-minute walk. The town is the third largest town in the Borough. It is a "Service Centre" and contains a "District Centre" as designated in the adopted Core Strategy (2015).

2.14 Along Fosse Way, there has been substantial residential development, interspersed with commercial buildings.

2.15 Syston train station is 2km to the south of the Site and offers direct train services to Leicester and Nottingham. The nearest bus stop is on Fosse Way ("High Street") at its junction with Mill Lane, a 9-minute walk from the site, where the 100 bus route provides services to Melton Mowbray.





### 3. PLANNING HISTORY

3.1 Table 2 below provides an overview of the planning history that is available on the Council's online planning portal and provides important context in terms of the lawful uses on the site:

<b>LPA Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Decision Date</b>
P/74/1337/2	Erection of industrial building Class IV.	Decided	19/02/1975
P/75/2541/2	New footbridge on diverted footpath replacing existing footbridge.	Grant conditionally	12/02/1976
P/77/2648/2	New office and canteen block.	Grant conditionally	17/05/1978
P/77/2649/2	Two new toilet blocks.	Grant conditionally	17/05/1978
P/78/3169/2	Retention of temporary building.	Grant conditionally	08/02/1979
P/79/0353/2	Erection of warehouse (renewal of ref.no. 2365/73/74/1301/12).	Grant conditionally	25/04/1979
P/80/0001/2	Two-storey factory extension to increase production area required.	Refuse	10/04/1980
P/80/2425/2	Extension and canopy to factory (Stamina Components (Syston) Limited).	Grant conditionally	03/10/1980
P/80/3627/2	Reconstruction of Syston Mills gauging station.	Permitted Development	18/12/1980
P/83/1602/2	Extension to provide three offices over existing offices.	Grant conditionally	26/08/1983
P/84/1039/2	Retention of storage hut.	Grant conditionally	12/06/1984
P/85/2467/2	Use of land for temporary storage of caravans (September to April)	Grant conditionally	08/01/1986
P/87/1840/2	Erection of new bridge over stream.	Grant conditionally	10/09/1987
P/97/1400/2	Determination of new planning conditions under the Environment Act (81/0756/2 refers).	Grant conditionally	24/07/1998
P/99/0951/2	Submission of details re. revised phasing of mineral extraction, landfill and layout of site reception area.	Grant conditionally	18/10/1999
P/00/1067/2	Extraction of sand and gravel (Consultation by Leicestershire County Council).	No objection	19/07/2000
P/00/2521/2	External alterations to industrial, warehouse and office premises.	Grant conditionally	29/01/2001



P/04/4370/2	Variation of condition 2 of planning permission 2002/2897/02 for extension of time for permitted operations (Consultation by Leicestershire County Council).	No objection	14/02/2005
P/04/4371/2	Variation of condition 4 of planning permission 1991/1400/02 for extensions of time for permitted operations (Consultation by Leicestershire County Council).	No objection	14/02/2005
P/20/1609/2	Change of use of vacant industrial units to Gymnasium (Use Class E(d)).	Refused	05/01/2021
P/21/1796/2	Certificate of lawfulness (existing) for the change of use of land to car sales / parking (Sui generis) and associated works.	Withdrawn	23/08/2022
P/22/0061/2	Certificate of lawfulness (existing) for the change of use of land to car sales / parking (Sui generis) and associated works.	Refused	09/06/2022
P/24/0474/2	Continued use of site as Car Repair shop and Mot station (Lawful Development Certificate for Continued Use).	Withdrawn	03.06.24

**Table 2: Planning history of the Site as found on the Council's online portal**

- 3.2 The historic permissions from the 1970s, 1980s and 2001 confirm the use of the site for industrial, warehouse and office use. The lawful use classes are therefore considered to be Use Classes B2, B8 and E g)(i) (formerly B1).
- 3.3 Applicants for the permissions in 1970s/1980s are Jackson Bourne End Property Ltd and Stamina Components (Syston) Ltd.
- 3.4 The accompanying Statutory Declaration provided by Mr David Knapp confirms that when he first visited in 1984, Bourne End Property Trading Ltd was owner of the site (Appendix 5). Stamina Components (Syston) Ltd was a tenant.
- 3.5 Mr Knapp confirms that Stamina Components (Syston) Ltd were a shoe sole manufacturer and the main tenant on the site in the 1980s. They sublet "Unit 20" to Mr Knapp for his mechanics workshop in 1984 for five years. In 1989, following Stamina Components (Syston) Ltd going into administration, Mr Knapp moved to "Unit 23" (to the



south-east and outside the alleged breach area) and continued to operate his mechanics business from there until he retired in 2020. From 1989, Mr Knapp has undertaken various duties at the site, outside of his primary job as a mechanic, including taking meter readings for the landlords and overseeing maintenance of the roads and cesspits. Mr Knapp will provide evidence on the history of uses within the alleged breach area.

- 3.6 Planning permission was granted in January 2001 (P/00/2521/2) for “external alterations to industrial, warehouse and office premises” (Appendix 6). The submitted “Existing Site Plan” (Appendix 7) clearly shows the industrial complex to the north of the water course, and clearly annotates a number of separate buildings, a portacabin and water pumping station, in addition to annotating a “hardcore parking area” to the south of the water course. The plan includes a number of buildings to the south-east, including “Mill House”.
- 3.7 The applicant’s cover letter ( to planning ref: P/00/2521/2) prepared by Colliers Conrad Ritblat Erdman and dated 29<sup>th</sup> November 2000 advised that “Apres Estates Limited” were the owners of Syston Mill at that point, and that Stamina Components, “*the principal occupant of the property*” went out of business in September 1999. The Cover Letter provided a short synopsis of the planning history of the site and is reproduced below:
- “The premises that comprise Syston Mills were generally constructed before the inception of the planning system, although various additions and changes to them have been subsequently approved. These have included extensions for manufacturing purposes in 1968, for storage in 1971 and for offices in 1978. Throughout the recent past, much of the floor space has been used by Stamina for manufacturing and storage purposes. Furthermore the company administered its operation from Syston. Other smaller firms have also undertaken such activities from the premises.*
- Apres Estates Limited purchased the property earlier this year. Its agents have had some success in finding short term tenants for various class B uses”.*
- 3.8 The Case Officer’s Site Visit Notes (dated 16/1) also confirms that [the site] “*been used for industrial purposes for many years*” (Appendix 8).
- 3.9 It is clear from the planning history and the Statutory Declaration of Mr Knapp that the land has a very long industrial heritage.
- 3.10 It will therefore be concluded that the prevailing legal use classes to the north of the water course are Use Class B2, Use Class B8 and Use Class E(g)(i) and Use Class E(g)(iii) and that the majority of units located to the north of the watercourse are lawful by this virtue.
- 3.11 It will also be concluded that there exists a number of separate planning units on the land and this will be discussed in Section 4.



## 4. THE PLANNING UNIT

- 4.1 The Council, in its Officer's Report, considers that the land associated with the Enforcement Notice is a single planning unit.
- 4.2 The Appellant considers that the Council is misconceived in its approach towards identifying the correct planning unit for the purposes of enforcement. The Enforcement Notice erroneously treats the whole of the site as a single planning unit in alleging a single "*sui generis use*". This is not correct. The site encompasses a number of separate planning units, applying the principles in the decision of *Burdle v Secretary of State for the Environment* [1972] 3 All E.R. 240 ("*Burdle*").
- 4.3 Mr Justice Bridge in *Burdle* suggested three broad tests to help identify the relevant planning unit:

*"First, that whenever it is possible to recognise a single main purpose of the occupier's use of his land to which secondary activities are incidental or ancillary, the whole unit of occupation should be considered... secondly, it may equally be apt to consider the entire unit of occupation even though the occupier carries on a variety of activities and it is not possible to say that one is incidental or ancillary to another. This is well settled in the case of a composite use where the component activities fluctuate in their intensity from time to time but the different activities are not confined within separate and physically distinct areas of land. Thirdly, however, it may frequently occur that within a single unit of occupation two or more physically separate and distinct areas are occupied for substantially different and unrelated purposes. In such a case each area used for a different main purpose (together with its incidental and ancillary activities) ought to be considered as a separate planning unit".*

### Test 1: Single unit of occupation with one primary use

- 4.4 The site comprises of a number of different planning units under occupation by different individuals/entities and which are identified on the Appellant's plan (at Appendix 4), illustrated by table 1 (at paragraph 2.10) and supported by the statutory declaration of David Knapp (Appendix 5). As such, it cannot be said that there is "a single main purpose" of the site to make out the first test in *Burdle*.

### Test 2: composite uses

- 4.5 In considering satisfaction of this test, it is useful to consider the further comments of Mr Justice Bridge in *Burdle*:

*"To decide which of these three categories apply to the circumstances of any particular case at any given time may be difficult. Like the question of material change of use, it must be a **question of fact and degree**. There may indeed be an almost imperceptible change from one category to another. Thus, for example, activities initially incidental*



to the main use of an area of land may grow in scale to a point where they convert the single use to a composite use and produce a material change of use of the whole. Again, activities once properly regarded as incidental to another use or as part of a composite use may be so intensified in scale and physically concentrated in a recognisably separate area that they produce a new planning unit the use of which is materially changed. It may be a useful working rule to assume that the unit of occupation is the appropriate planning unit, **unless and until some smaller unit can be recognised as the site of activities which amount in substance to a separate use both physically and functionally**” (our emphasis).

- 4.6 The Appellant’s plan (at Appendix 4), table 1 (at paragraph 2.10) and the supporting statutory declaration of David Knapp (at Appendix 5) illustrate that there are separate and distinct parcels/units within the site each capable, and demonstrable, of being independent of others within the site.
- 4.7 The Appellant submits there is no single main purpose of the site and, as such, each parcel/unit is not incidental/ancillary to the overarching use.
- 4.8 Whilst it is appreciated that many of the units on the site are used for a similar purpose (i.e. as a car repair workshop), they are not (and nor should they be assumed to be) connected to one another such as to form a singular planning unit. Each business is operated independently of one another. As the submissions support, the parcels/units are both physically and functionally distinct as to amount to their own respective planning units.
- 4.9 The position on site is similar to that seen in *Church Commissioners v Secretary of State for the Environment* (1995) 71 P. & C.R. 73 where R.M.K. Gray Q.C. sitting as a Deputy High Court Judge held that, in relation to units in a shopping mall, the individual shop units are in their own right individual planning units.
- 4.10 As such, the Appellant submits that the second test in *Burdle* cannot be made out.

Test 3: separate and distinct areas occupied for different and unrelated purposes

- 4.11 Paragraphs 4.6 to 4.10 above are repeated.
- 4.12 The Appellant’s plan (at Appendix 4), table 1 (at paragraph 2.10) and the supporting statutory declaration of David Knapp illustrates the distinction between each parcel/unit such as to amount to individual planning units as opposed to one holistic planning unit (being the site). As the submissions support, the parcels/units are both physically and functionally distinct as to amount to their own respective planning units.
- 4.13 Accordingly, in seeking to enforce against the entire site, the Enforcement Notice has incorrectly identified the planning unit for the purposes of enforcement and should thus be quashed.



## 5. GROUNDS OF APPEAL

5.1 The Appellant advances various grounds of appeal which are discussed in more detail in this section of the Statement and will be expanded upon with the Proofs of Evidence and during the Inquiry.

*Ground (c) - The matters stated in the Notice do not constitute a breach of planning control*

5.2 The Appellant considers that the use of the land parcels and buildings outlined in Table 3 below are permitted by planning permission reference P/00-02521/2 dated 29<sup>th</sup> January 2001 for the “external alterations to industrial, warehouse and office premises” (Appendix 6).

<b>Parcel ID</b>	<b>Description of Use</b>	<b>Use Class</b>
Parcel 101	Land in use as car parking area.	Sui Generis
Unit 7.	Building in use as car repair workshop.	B2
Unit 7A.	Building vacant and was used for storage of slate and felt materials and car repair workshop.	B8/B2
Unit 20.	Building is vacant and was used as car repair workshop.	B2
Unit A, C and Lean-to	Building in use as car repair workshop.	B2
Unit B1	Building in use as a car repair workshop.	B2
Unit B2	Building in use as car repair workshop.	B2
Unit E1	Building in use as car repair workshop.	B2
Unit E2	Building in use as car repair workshop.	B2
Unit D	Building in use as car repair workshop.	B2
Unit 10	Building is vacant and has been historically used as offices.	E
Unit 22 – 1 <sup>st</sup> Floor	First Floor is vacant and has been historically used as office/industrial/storage.	E, B2/B8
Unit 16	Building is vacant and has been historically used for industrial steel fabrication and offices.	E, B2
Unit 17A	Building in use as car repair workshop.	B2
Unit 17B	Building is vacant and was used as car repair workshop.	B2
Unit 17C	Building is vacant and was used as car repair workshop.	B2
Unit 18	Building is used as car repair workshop.	B2

**Table 3: Land and buildings not in breach of planning control covered by planning permission P/00/02521/2.**

5.3 The submitted “Existing Site Plan” (Appendix 7) clearly shows the industrial complex to the north of the water course, and clearly annotates a number of separate buildings, a portacabin and water pumping station, in addition to annotating a “hardcore parking area” to the south of the water course.



5.4 The Case Officer's site notes (Appendix 8) in respect of planning permission reference P/00/02521/2 state:

*"Site in countryside and been used for industrial purposes for many years. I've discussed the proposals with Guy Longley and he doesn't see any conflict with existing/emerging policies on the basis that buildings are there and that proposals are just improvements/refurbishment".*

5.5 The planning permission clearly relates to all buildings and land to the north of the watercourse and includes land to the south of the watercourse, which is annotated as "hardcore parking area". It is considered that the "hardcore parking area" relates to Parcels 101 and 103 on the Appellant's Map at Appendix 4.

5.6 The planning permission is clear that it relates to industrial, warehouse and office premises and accordingly, it is considered that the use of the land and units as outlined within Table 3 falls within the permitted uses of Use Class B2, B8 and E(g)(i) and E(g)(iii).

5.7 It will be concluded that the planning units outlined in Table 3 are not in breach of planning control and Ground (c) should succeed.

***Ground (d) – The alleged breach of planning control is now immune from planning enforcement***

5.8 On 25 April 2024, section 115 of the Levelling-up and Regeneration Act 2023 came into force, amending section 171B of the 1990 Act such that there is now only one period of immunity: 10 years. However, Regulation 5 of the Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024 introduced a transitional arrangement concerning whether the four or 10-year rules apply.

5.9 In essence, development becomes immune from enforcement if no action is taken:

- within 10 years of substantial completion for a breach of planning control consisting of operational development where substantial completion took place on or after 25 April 2024.
- within 4 years of substantial completion for a breach of planning control consisting of operational development where substantial completion took place before 25 April 2024.
- within 10 years for any other breach of planning control (essentially other changes of use).

5.10 The Statutory Declaration provided by Mr David John Knapp alongside exhibits within his Declaration confirm that the operational development and uses listed in Table 4 below have been ongoing for more than 10 years.



<b>Parcel ID</b>	<b>Notes on operational development and use</b>
Parcel 101	Covered in hardstanding and in use for car parking for over 10 years.
Parcel 103A	Covered in hardstanding for over 10 years.
Parcel 103B	Covered in hardstanding for over 10 years.
Unit 10	Building in use as offices for over 10 years.
Unit 16	Building in use as industrial steel fabrication and offices for 10 years.
Unit 22 – Ground floor	Ground floor in use as hiring, selling and/or display of motor vehicles, sales office and workshop by E-Lease Ltd (trading as ‘wesellanyvans.com’) for over 10 years.
Parcel 107 A	External parking area associated with the selling and/or displaying of motor vehicles by E-Lease Ltd (trading as ‘wesellanyvans.com’) for over 10 years.
Parcel 107 B	Vacant as of late 2024 and was used as an external parking area associated with the selling and/or displaying of motor vehicles by E-Lease Ltd (trading as ‘wesellanyvans.com’) for over 10 years.

**Table 4: Ground (d) Operations and Uses**

- 5.11 In terms of Parcel 101, Mr Knapp confirms that the land has been under laid with hardstanding and in use for the parking of vehicles for staff and visitors to the site since the 1980s. Ordinance Survey plans from 1986 and 1993 (pages 10 and 11 of the Exhibit) clearly identify parcel 101 as an established area used for parking.
- 5.12 Likewise, Parcels 103A and 103B (formerly one parcel) was occupied by “Topps Taxis” between 2013 and 2020 for the storage of its vehicle fleet. Mr Knapp confirms that this area was covered in hardstanding prior to Topps Taxis taking occupation and accordingly the hardstanding has been in place for over 10 years. This is illustrated by aerial photos at pages 5 to 9 of the Exhibit.
- 5.13 Mr Knapp confirms that Unit 10 was in use as offices when he first occupied a unit on the site in 1984. He confirms that this use has continued until mid-late 2024 and the unit is currently vacant.
- 5.14 Mr Knapp confirms that Unit 16 has been occupied by “SMC Site Services” for over 10 year, using the premises for industrial steel fabrication and offices. The company vacated the unit in July 2024 and it remains vacant.
- 5.15 Mr Knapp confirms that Unit 22 (Ground Floor) and Parcel 107 has been occupied by E Lease Ltd (trading as ‘wesellanyvans.com’) for over 10 years. Unit 22 has been used as a car showroom/sales office and workshop during that period, while Parcel 107 has been used for the parking, storing and sale of vans and cars in association with the use and occupation of Unit 22. The northern part of Parcel 107 (107A) remains in use by E Lease Ltd, however they vacated the southern part (107B) in late 2024 and this parcel is currently unoccupied.
- 5.16 Mr Knapp confirms that Parcel 107 was landscaped under the previous landlord (14 years ago), which is corroborated by the aerial photograph from 2010 (page 6 of the





Exhibit). Prior to the hardscaping, the area was used for the general parking and storage of vehicles as illustrated by aerial photograph from 2006 (page 5 of the Exhibit).

- 5.17 Mr Knapp will provide evidence under examination. An unsigned copy of his statutory declaration accompanies this Statement of Case and is included at Appendix 5. The signed version is awaited from Mr Knapp. Once received, a copy will be provided to PINS immediately.
- 5.18 Accordingly, it will be concluded that the operational development and uses listed in Table 4 are immune from enforcement action and the appeal on Ground (d) should succeed.

***Ground (b) – The alleged breach of planning control has not occurred***

- 5.19 A number of units are, as of 8<sup>th</sup> January 2025, either vacant and accordingly, not in breach of planning control; or, are occupied by B2 uses, with the benefit of a prevailing planning permission reference P/00-02521/2 dated 29<sup>th</sup> January 2001 (Appendix 6).
- 5.20 The units, which the Appellant considers succeed under ground (b), are set out below in Table 5 below:

<b>Parcel ID</b>	<b>Description of Use</b>	<b>Use Class</b>
Unit 7	Building is in use as car repair workshop.	B2
Unit 7A	Building is vacant and was used for storage of slate and felt materials and car repair workshop.	B8/B2
Unit 20	Building is vacant and was used as car repair workshop.	B2
Unit A, C and Lean-to	Building in use as car repair workshop.	B2
Unit B1	Building in use as a car repair workshop.	B2
Unit B2	Building in use as car repair workshop.	B2
Unit E1	Building in use as car repair workshop.	B2
Unit E2	Building in use as car repair workshop.	B2
Unit D	Building in use as car repair workshop.	B2
Unit 10	Building vacant and was in use as offices.	E
Unit 22 – 1 <sup>st</sup> Floor	First Floor vacant and was used as office/industrial/storage.	E, B2/B8
Unit 16	Building is vacant and was used for industrial steel fabrication and offices.	E, B2
Unit 17A	Building in use as car repair workshop.	B2
Unit 17B	Building is vacant and was used as car repair workshop.	B2
Unit 17C	Building is vacant and was used as car repair workshop.	B2
Unit 18	Building in use as a car repair workshop.	B2

**Table 5: Ground (b) no breach of planning control has occurred**

- 5.21 The Appellant will provide evidence under oath on the current vacancies and uses.



5.22 It will be concluded that the above units of occupation are themselves independent planning units which should be excluded from the Notice as no breach of planning control has occurred.

***Ground (a) – Planning permission should be granted***

5.23 Without prejudice to the Appellant’s case that most or all of the matters alleged in the Notice are misconceived, have planning permission or have become lawful for the reasons set out above, the Appellant seeks planning permission for the parking and storage of motor vehicles on Parcels 103A and 103B (noting that the hardstanding is lawful).

<b>Parcel 103 A</b>	Storage/parking of motor vehicles should be permitted on this area of established hardstanding.
<b>Parcel 103 B</b>	Storage/parking of motor vehicles should be permitted on this area of established hardstanding.

**Table 6: Ground (a) planning permission should be granted**

5.24 The Appellant has instructed a consultant team to prepare supporting technical documents to address the reasons for refusal and to support the Ground (a) appeal. The following paragraphs summarise the findings of those reports which are included at Appendices 9-11.

- **Transport and highways**  
The Transport Assessment has been prepared by MAGNA Planning Consulting and confirms that there are no potential highway safety issues caused by the current design of the junction of Mill Lane with Fosse Way; nor are there any safety issues for pedestrians using the underbridge.
- **Contamination**  
A Phase I Preliminary Land Contamination Risk Assessment has been carried out by Castledine Environmental Ltd. The Phase I Assessment identified the site as a “moderate to high risk level with respect to the present usage and risks to controlled waters, respectively” and recommended that a phased intrusive site investigation be undertaken. This has been carried out, however due to the Christmas and New Year holidays, the results are unavailable at the point of submission of this Statement of Case. The findings and recommendations of the Phase II will be provided by the expert witness in the forthcoming Proof of Evidence.
- **Flood Risk**  
A Flood Risk Assessment has been carried out by JBA Consulting and confirms that the development is compliant with the National Planning Policy Framework and demonstrates that flood risk is capable of being managed appropriately.
- **Preliminary Ecological Appraisal**  
The Appellant has instructed Estrada Ecology Ltd to undertake the necessary surveys which will form part of a Preliminary Ecological Appraisal however these surveys cannot be undertaken until spring 2025.



- 5.25 The submitted technical documents with regards to highways and flood risk have shown compliance with national and local planning policies and accordingly, planning permission, if required, should be granted for Parcels 103A and 103B.
- 5.26 Proofs of Evidence will be provided in support of the Ground (a) appeal at the appropriate time; and it will be concluded that the Ground (a) appeal should succeed.

*Ground (f) – the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.*

- 5.27 The Notice seeks to treat the entire area of the Site as the basis for prohibition of all uses taking place on the site. The Notice errs in considering the site as one single planning unit, ignoring prevailing planning permissions and periods of elapsed time pursuant to immunity, for multiple components on the site.
- 5.28 If the appeals are only partially successful it will be concluded that there are alternative, lesser steps which could remedy any identified breaches. These cannot be defined until such time as the Inspectors conclusions are known.

*Ground (g) – that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.*

- 5.29 If the appeals are unsuccessful it will be concluded that the time given for compliance within the Notice to cease all uses and remove everything is too short and that a longer period should be applied.



## 6. GROUND A - PLANNING POLICY CONTEXT AND CONSIDERATIONS

- 6.1 The starting point for the determination of any planning application is the adopted Development Plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications should be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 6.2 The Development Plan for the Site comprises the relevant policies of the Charnwood Local Plan 2011-2028 Core Strategy (adopted 2015) and the saved policies from the Borough of Charnwood Local Plan (2004).
- 6.3 The National Planning Policy Framework (“the NPPF”) was updated in December 2024 and is a material consideration in the determination of planning applications.
- 6.4 The NPPF sets out the Government’s planning policies for England and how these should be applied, confirming the “presumption in favour of sustainable development” at its heart (paragraph 11).
- 6.5 In addition, National Planning Practice Guidance, a web-based resource setting out the mechanism for the application of policies found within the NPPF, is also a material consideration; together with any relevant Supplementary Planning Documents (SPDs), which in this case is considered to be the Charnwood Design SPD (2020).
- 6.6 The Council submitted its new Local Plan for Examination on Friday December 3, 2021.
- 6.7 Main modifications were published by the Council in July 2024 and consulted upon for seven weeks.
- 6.8 In November 2024, the Inspectors wrote to the Council in relation to its updated position: its intention to prepare a CIL to deliver the Transport Strategies, and potentially other infrastructure. The Inspectors deemed this as “a significant change in its position”. As a result of this, further viability work is required to be undertaken by the Council, which is expected to be submitted to the examination for Inspectors review by week commencing 13<sup>th</sup> January 2025.
- 6.9 On review, the Inspectors will then decide if the examination can be progressed.



- 6.10 The Council has produced an up-to-date Local Development Scheme (LDS), which provides a provisional date of adoption for the new Local Plan as October/November 2025.
- 6.11 The Council's saved policies and those within the adopted Local Plan are aged and the weight to be ascribed to any conflict with them must be carefully considered in light of current national guidance.
- 6.12 Similarly, the weight ascribed to the policies in the emerging Local Plan will be subject to assessment during proceedings.
- 6.13 Proofs of Evidence will be presented at the appropriate time and will cover the following planning policy considerations:
- i. The planning unit
  - ii. The principle of development
  - iii. Design and impact on the character and appearance of the countryside
  - iv. Flood risk and contamination
  - v. Highways
  - vi. Biodiversity



## 7. SUMMARY

7.1 This Statement of Case has been prepared on behalf of the Appellant in respect of an Enforcement Notice (the “Notice”) issued by Charnwood Borough Council (the “Council”) reference number ref: E/21/0183 dated 23<sup>rd</sup> September 2024.

7.2 The following grounds will be advanced:

### *Ground (c) Appeal*

7.3 It will be concluded that there has been no material change of use for the majority of buildings on the Syston Mill complex having been part of an historic industrial complex for over 40 years and having planning permission pursuant to planning permission P/00/02521/2 dated 29<sup>th</sup> January 2001.

### *Ground (d) Appeal*

7.4 It will be concluded that the land outlined in red on the Plan attached to the Enforcement Notice is not a single planning unit and the Notice is misconceived in its approach and should at the very least be amended to reflect the actual planning position.

7.5 It will be concluded that the hardstanding and parking of vehicles on Parcel 101 is lawful and immune from enforcement, having been in place for more than 10 years.

7.6 It will be concluded that the hardstanding on Parcels 103A and 103B is lawful and immune from enforcement having been in place for more than 10 years.

7.7 It will be concluded that the use of Unit 16 for industrial and office uses is lawful and immune from enforcement having been in use for more than 10 years.

### *Ground (b) Appeal*

7.8 It will be concluded that a number of units are, as of 8<sup>th</sup> January 2025, either vacant and accordingly, not in breach of planning control; or, are occupied by B2 uses, with the benefit of a prevailing planning permission reference P/00-02521/2 dated 29<sup>th</sup> January 2001.

### *Ground (a) Appeal*

7.9 It will be concluded that planning permission should be granted for the parking and storing of motor vehicles on Parcels 103A and 103B.

### *Ground (f) Appeal*

7.10 If the ground (b) and (d) appeals are only partially successful it will be concluded that there are alternative, lesser steps which could remedy the identified breaches. These cannot be defined until such time as the Inspectors conclusions are known.



*Ground (g) Appeal*

- 7.11 If the appeals are unsuccessful it will be concluded that the time given for compliance within the Notice is too short and that a longer period should be applied.