Reference: APP/W0530/C/20/3248872. Dated 3rd August 2020.

Enforcement notice

6. Taking into account the site history and the representations on the current appeal, I raised with the main parties several matters related to the enforcement notice, including the planning unit, the use(s) confirmed as lawful by the LDC, the description of the alleged breach of planning control, the extent of the hardstanding and how step 4 in the requirements related to the description of the alleged breach.

7. In terms of use, the notice is directed at the use of land as a coach storage area. There is a distinction between parking and storage, based on the judgement *Crawley BC v Hickmet Ltd*[2]. Parking means leaving a vehicle while it is in current use, whether that is for short or long term. Storage takes place when something is put away for a period of time because its use is not contemplated in the short term. It did not appear that this distinction was taken into account in the drafting of the notice and in the representations. Furthermore, the appellant's statement of case in the site description refers to an existing coach business operating from the site known as Andrews Coaches.

8. As the Council has correctly observed, on site a small number of older model of coaches appear to be stored on unsurfaced land near to the back of the dwelling. When I visited the site some 17 coaches were also parked up on the hard standing west of the dwelling and appeared to be the fleet of coaches used normally for service provision. The representations on the ground (a) appeal described the business operation that has been taking place from the site (pre Covid-19 restrictions), where the coaches are used in transport

[1] LDC ref: S/0343/04/LDC issued by the Council on 20 July 2004, subsequently referred to in this Decision as the 2004 LDC
[2] *Crawley Borough Council v Hickmet Ltd* [1998] 75 P&CR 500

Reference: APP/R5510/C/15/3129089. Dated 27th July 2017.

15. Furthermore, I conclude that the appellant's use of the site is not really a "storage and distribution" use. In reaching the view that it is not storage, I have had regard to the Court of Appeal's judgement in *Crawley BC v Hickmet Ltd* [1998] JPL 210, to which I drew the parties' attention at the inquiry. As suggested by Mr Shadarevian QC, I have approached that judgement with caution, because it concerned the question of whether vehicle parking amounted to storage, but it nevertheless provides some useful principles. In this case, I am not persuaded on the evidence that the skips and waste containers or bins are brought onto the site for the purpose of being stored there. They are not being put away on the site, because they are not needed; they are in use in the delivery of the Heathrow contract and, at times, Golden Weekends. To the extent that it can be said that there is temporary storage, this is ancillary to the primary use.

16. Similarly, the term distribution is not apt to describe the appellant's use of the site. It is not distributing skips and waste containers to others or to retail outlets; it is simply utilising them in its business. The skips and waste containers come to this site on lorries from its other sites, or via Heathrow, they travel onto the appellant's Willesden processing plant and in due course return to the appeal site.

Reference: APP/N5090/C/20/3264986. Dated 15th September 2021.

Ground (b) (and "hidden" ground (c))

11. For an appeal to succeed under ground (b), the appellant must demonstrate on the balance of probabilities that the matters as stated in the notice have not occurred. The appellant says that he uses the land as storage including the stationing of a portacabin, while car components and waste materials are the results of dumping by others. While it may be the case that others may be responsible for the initial presence of 'dumped' items, it seems to me that the character of the use of the land is for storage as alleged by the Council and largely accepted by the appellant. Therefore, the appeal under ground (b) must fail.

12. It appears however from the appellant's submissions that what he is arguing is that his use of the land for storage is not a breach of planning control. This is more suited to an appeal under ground (c) of s174(2) of the Act. The appellant says that there has not been a material change of use requiring planning permission. While the burden of proof is on him under this ground, he has provided very limited substantive evidence to show that a material change of use has not occurred in the face of a planning history showing permissions for a car park and a garage. The 2003 Google photograph submitted by the appellant appears to show cars parked on the land, and is not persuasive that the land's use was for storage. The judgment of *Hickmet*[6] in the Court of Appeal confirmed that the two concepts of parking and storage are distinct and mutually exclusive.

13. Further, while the appellant says that the use of the site is "sui generis" this does not demonstrate that a material change of use has not resulted in the current use.

14. For the above reasons, I am not satisfied on the balance of probabilities that a breach of planning control has not occurred. Accordingly, an appeal on ground (c) does not succeed.

Reference: APP/C1435/X/20/3256915. Dated 14th January 2022.

13. The appellant acknowledges that this yard has not been used in relation to the coaches for a period in excess of ten years on the date of application. Coaches are used for school transport during the week in term time, leaving in the morning and returning in the afternoon. Between journeys, they are parked, cleaned and maintained on this site. During the term time, the parking is only overnight and at weekends, so the coaches are left for a relatively short period. At other times they are parked for more substantial periods, such as during the school holidays. I note that the site lacks some of the facilities normally present in coach depots, such as parking for drivers' cars and welfare facilities, and the public do not visit this site. Nevertheless, taking account of the evidence presented and the judgement in the case of *Crawley Borough Council v Hickmet Ltd* [1998] 75 P. & C. R. 500, I consider that use is as a coach depot.