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**NORTH FAIRGROUND SITE  
VALE OF HEALTH  
LONDON NW3 1AU**

**PUBLIC INQUIRY**

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**ADDENDUM  
STATEMENT OF CASE**

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**THE CITY OF LONDON CORPORATION**

**APPEAL REFERENCE: APP/X5210/18/3198526**

**DECEMBER 2018**

## INTRODUCTION

- 1.1 This Addendum is prepared in respect of the Statement of Case of The City of London Corporation to clarify a reference contained in the original statement submitted on 20 September 2018.

### **Para 2.6**

- 1.2 Para 2.6 has been replaced to clarify reference to enforcement in 2006. The enforcement investigation began in 2003 as a result of a complaint received from a neighbouring resident and the file was closed in 2006. Although a planning contravention notice was issued to establish the facts of the case, no enforcement action was taken as a result of this enforcement investigation and the Council concluded that no material change of use had occurred at that time.
- 1.3 Para 2.6 has been amended to correct reference to ‘enforcement investigation’ rather than ‘enforcement action’.

### **Para 4.23**

- 1.4 Please substitute the revised page 14 attached, which includes an amendment to para 4.23 to clarify the references for the site descriptions.
- 1.5 For clarification, the following wording:

*“...The lawful and established use ... is as a ‘showpeoples’ site’ with associated occasional fairground use, incorporating a mix of recreational, residential, commercial and storage use”*

is an extract from the Proof of Evidence (para 5.27) of Mr Charles Thuaire, to the Public Inquiry for Appeal Ref: APP/X5210/A/97/283311 in respect of Application Ref: PW9702255. Mr Thuaire was appearing on behalf of the London Borough of Camden, and was the case officer for the original application. The paragraph above this extract in para 4.23 of the Corporation’s Statement of Case, also contains a site description from the Officer’s Report to the same application. Paragraph 1.1 of that Officer’s Report and is also reproduced in para 4.23 of the Corporation’s Statement of Case and was included in the Appellant’s Planning Statement for The (current) Appeal.

- 1.6 Both descriptions were used and applied to the site during the consideration of the Application for residential redevelopment of the site, which was refused and heard at Appeal in 1998. The first, in the Officer's Report, the second in the Proof of Evidence.
- 1.7 This Addendum has been prepared to clarify the source of the references between the wording in the Officer's Report and the Proof of Evidence of the Council, prepared subsequently, in respect of the same application, which was absent in the original Statement of Case submitted by the City of London Corporation. Revised Paragraph 4.23 (attached) clarifies where these references have been obtained.

**Revised Paras 2.6 and 4.23**

2.6 The site was also subject to an enforcement investigation which ran from 2003 to 2006 following a complaint from a local resident that caravans and occupants not associated with the travelling showpeople's use, were present on the site.

2.7 The pattern followed appears to be that an application is made every ten years or so in an attempt to move the use of the site in the direction of permanent residential use. In 1998, 2010 and now 2017, the intent is clear. The City notes that the Inspector in the 1998 Appeal was moved to comment:

*“9. Before I identify my view of the principal issues in this case, I feel it necessary to deal with a legal matter that arises from a principal plank of your case.....As I understand the argument that you have advanced at the Inquiry, you believe that these designations should not prejudice the development of the site for residential purposes because they postdate the residential use of the site....*

*10. In my view this represents a fundamental misunderstanding of the planning process.....”*

2.8 The consistent thread throughout this period has however been the policy designation of the site as Metropolitan Open Land (in respect of which, no attempt has been made to have the designation changed) and which may well have influenced the approach taken to the site owners or previous applicant's engagement with the planning system since 1998. The Appeal Inspector in 1998 took the view that the lawful use was probably as 'winter quarters' as described in circular 22/91<sup>8</sup>

2.9 The Appeal proposal is a further application (within that pattern of fairly regular applications) attempting to justify a permanent sole residential use of the site, without being subject to the rigours of an application for planning permission.

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<sup>8</sup> Replaced by Circular 04/2007 which was in turn replaced by Planning Policy for Travellers 2015

*shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or their family's or dependants' more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily, but excludes Gypsies and Travellers as defined above.*

*For the purposes of this planning policy, "pitch" means a pitch on a "gypsy and traveller" site and "plot" means a pitch on a "travelling showpeople" site (often called a "yard"). This terminology differentiates between residential pitches for "gypsies and travellers" and mixed-use plots for "travelling showpeople", which may / will need to incorporate space or to be split to allow for the storage of equipment.*

- 4.20 The 'plot' is therefore larger than a single pitch for a caravan as it also comprises space for storage and maintenance of equipment – a mix of uses.
- 4.21 In view of the above, the City considers that the current lawful use of the planning unit is as a 'travelling showpeople's site', which comprises the mix of caravans for residential occupation, storage of caravans, vehicles and equipment, that one would reasonably expect from such a site.

#### Specific References to and Descriptions of the Use of this Site

- 4.22 The Appellant has referred to a description of the site in a Committee Report associated with the consideration of the application for residential redevelopment in 1998.
- 4.23 The reference made in this report for the North Fairground Site is as follows:

*"1.1 ...The north site is owned by the Abbott family who live on the site in caravans and use it for occasional fairground purposes. At present the north site is used for the storage of numerous caravans, lorries, trailers, kiosks and associated fairground equipment and, as such, has an untidy and semi-derelict appearance. The site is connected to mains electricity and sewerage."*

The Proof of Evidence of Mr Charles Thuairé (appearing for Camden Council) to the Public Inquiry which arose as a result of the non-determination of this application for

redevelopment in 1998, provides a further description of the nature of activities and the lawful use at that time. Para 5.27 of Mr Thuairé's evidence states:-

*...The lawful and established use ... is as a 'showpeoples' site' with associated occasional fairground use, incorporating a mix of recreational, residential, commercial and storage use"*

- 4.24 The list of component parts of the use set out in this assessment would appear consistent with the records of the visual appearance of the site included at Appendix 2.
- 4.25 The Inspector's summary of the use of the site from the 1998 appeal decision was succinct and described the lawful use of the property as *'probably as winter quarters as described in Circular 22/91<sup>11</sup>*, the circular which was superseded by Circular 04/2007 and latterly the Planning Policy for Traveller Sites, August 2015.
- 4.26 There is also a reference in adopted policy to the site providing 'plots' for travelling show people. The supporting text of Policy H11 of the Camden Local Plan 2017 refers to the site as the North Fairground Site at the Vale of Health, providing 5 plots for travelling show people.

#### Evidentiary Test for Lawful Existing Use

- 4.27 The appropriate evidence required to support the proposed use sought by the Appellant is: 10 years of the continuous siting of caravans for permanent residential occupation unrelated to the travelling showpeople's use of the site and for the period preceding 31 July 2017.
- 4.28 The Planning Practice Guidance Notes are clear that the burden of proof rests with the applicant, when establishing if a use is lawful. This test is no less relevant for a Certificate of Lawfulness for a proposed use than it is for an existing use.
- 4.29 The Appellant appears to take a different view on this, with only a cursory summation of the available evidence. On page 6 of the Appellant's Statement it is stated that:

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<sup>11</sup> Para 9 – attached at appendix 3