Dear Mr Eland,

As you know I was surprised at how thin the statement of case from the LPA is, and concerned at the amount of detail that is missing.

I have taken advice regarding the LPA’s statement of case, and would like to clarify that not only did the LPA insist on a public inquiry despite their original request for a ‘written representation’ at the questionnaire stage, but most importantly the LPA’s Statement of Case does not comply with the Town and Country Planning (Enforcement) (Inquires Procedure) (England) Rule 2002.  These provide that, amongst other matters:

 “Statement of Case” means, and is comprised of, a written statement which contains full particulars of the case which a person proposes to put forward at an inquiry, and a list of any documents which that person intends to refer to or put in evidence.”

The LPA’s case contains no list of documents.  Unless, therefore, the LPA are prepared to confirm at this time that there are no documents upon which they intend to rely they must produce a list and must, if requested, provide copies of all documents on that list.  Indeed, the LPA’s Statement of Case makes reference to site visits and photographs.  The Statement of Case also makes reference to information received from third parties.  The notes taken during, or following the site visits, together with a transcript of anything that was said or recorded, should be listed and provided, as should copies of all photographs and any information received from third parties.

Finally, in a situation like this where no Planning Contravention Notice was served, the LPA’s Statement of Case falls well below providing full particulars of the case the LPA intends to make.  I the appellant am far from satisfied that the LPA’s Statement sets out a reasonable basis for taking enforcement action in the form that it has been taken, and unless further particulars of case are provided, together with a full list of all documents upon which the LPA intends to rely, I put the LPA on notice now that it can anticipate an application for costs.  Indeed, if any document and/or information that is available now is withheld until later in the appeal process, I will, in addition to applying for costs, make representations about its late submission and will request the Inspector not to accept any documents and/or information that was not made available at this time.

In addition to this, the statement of case submitted by the LPA states that they ‘will endeavour to agree a statement of common ground with the appellant, to cover a range of factual matters such as site location and description together with the planning history of the site’, however being both ‘broad’ and ‘brief’, much of the factual detail from the ‘brief planning history of the appeal site’ is missing, as well as several dates and details being factually incorrect.

How do I go about correcting / addressing this and the absences therein?

I would like it noted that the following is considered an accurate record to flesh out the points outlined in the LPA’s statement of case under ‘Brief planning history’ and fill in the gaps:

·      **2**
***Missing***. June and July 2009.  No reference to ***preliminary enquiry*** made by the appellant to LPA regarding feasibility of forestry buildings in quarry.

·      ***Missing***. June 2009. No reference to ***site visit*** by LPA as part of preliminary inquiry.

·       ***Missing*** 26th June 2009. No reference to Written***advice from the LPA*** to the applicant that ‘what you are proposing is likely to be acceptable in principle.  In policy terms forestry development in this location would be acceptable.’

·      **2.2**
***Incorrect***. In previous communication Mr C. Walledge stated the 27th March 2012 as opening of enforcement file. Date of 23rdMarch 2012 is now given.

·      **2.3**
***Incorrect***. Date of 27th April 2012 is given for enforcement visit. This was on 17th April 2012 by officer Brian Corcoran.

I have repeatedly asked the LPA to see the notes from this enforcement visit in written requests and through third parties, and subsequent communication by phone between the appellant and enforcement officer Corcoran.
Further to this I the appellant requested copies of all communication on 7th March 2016 as a Freedom of Information request, without any satisfactory response from the LPA.
This is now under investigation by the ICO.

·      **2.4.5 *Missing***. 12th June 2012. ***Site visit*** with the appelant by expert in forestry, planning and enforcement officers. Louise Smith (case officer), Mike Gardner (expert forester), Brian Beasley (tree and landscape officer), and James Aven (head of enforcement).

·      **2.4.5a**) ***Missing***. 12th June 2012. ***Enforcement visit***accompanied by appellant by Brian Beasley and James Aven – Not reported by DNPA.

·      **2.5** ***Incorrect*** ‘No planning application was submitted’. The LPA fails to mention that the appellant employed a planning adviser / architect to submit a planning application for barns which was recommended refusal on pre-application. (see below)

·      **2.5.5** ***Missing***. 19th September 2012. ***Hedgerow removal notice*** ***application*** on 19th September 2012

·      **2.5.5a)** ***Missing***. 12th November 2012. ***Appeal to the planning inspectorate*** against hedgerow retention notice.

·      **2.6** ***Incorrect***. 11th June 2013. LPA misses essential details that the site was visited by 3 enforcement officers during the stated visit, not just one. Including the two heads of enforcement James Aven and Nick Savin, supporting Andy West (enforcement officer), all three visited the site.

The appellant has requested notes and minutes from this meeting with no success, also part of the ICO inquiry into the FOI.

·      **2.6.5  *Missing.*** 11th September 2013. ***Planning Application 0503/13*** for new access submitted.

·      **2.6.5a) *Missing.*** 15th November 2013. ***Planning Application 0503/13 granted***.

·      **2.6.5b) *Missing.***27th February 2014. ***Discharge of planning conditions***3 and 4.

·      **2.6.5c) *Missing***. 20th October 2014. ***Refusal for pre/0841/14 Pre- application*** advice for storage barns.

·      **2.7.5 *Missing.*** 4th June 2014.***Site visit***Jo Burgess (planning officer) with Rupert Lane (agent to appellant) and Gill Baker (planning adviser architect).

·      **2**.**9** ***Unnecessary.*** ***Appeal was lodged APP/J9497/W/15/3140928*** stating that prior-notification should have been supported.

·      **2.10 *Incorrect.***Site was visited at least twice during October 2015.

·      **2.10.5 *Missing*.**12th November 2015. ***Planning meeting*** at Park with the appellant, Paul Tyler (adviser), Brian Beasley (tree and landscape officer), and Jo Burgess (planning officer).

·      **2.10.5a) *Missing.*** ***Planning and Policy meeting*** with Alison Kohler (DNP Director) with Paul Tyler (adviser) and appellant

·      **2.10.5b) *Missing*.**2nd December 2015 ***Enforcement Officer visit.***

·      **2.11 *Missing.*** 3rd December 2015. ***DNP Planning and Policy meeting***called by director Alison Kohler following her meeting with Paul Tyler and the appelant to address the matter of the Hillyfield.

·      **2.11.5 *Missing*.**11th December 2015. ***DNP written advice*** to inform appellant that DNP now had no objections to a machinery store in the quarry and that the appellant should re-apply under prior notification.
Also that DNP considered ‘to seek authorization for appropriate enforcement action to secure removal of the structures’.

·      **2.11.5a) *Missing.***13th December 2015. Email from the appellant ***requesting a meeting*** with Jo Burgess (planning officer) and James Aven (head of enforcement) to discuss proposed enforcement issues and clarify use. Followed up with email on 29thDecember 2015. No response from DNP

**Reasonable Requirements of Forestry**

6.2 ***Incorrect***. LPA states a ‘lack of suitable access’ which is considered both irrelevant and incorrect by the appellant.

I appreciate your support in handling this as appropriate and letting me know if I am to contact the LPA directly or should leave this with PINS.

Many thanks

Yours truly

Doug King-Smith