

FAO Helen Willows (Planning Officer)
Planning and Building Control
Barnsley MBC
PO Box 634
Barnsley
S70 9GG

Our Ref RJ.GRE992.1
Your Ref 2024/0676
Date 21 July 2025
Email [REDACTED]
Direct [REDACTED]

By email:

HelenWillows@barnsley.gov.uk
developmentmanagement@barnsley.gov.uk

Dear Ms Willows,

Application reference 2024/0676

We act for Mr Julian Senior and Mr Jonathan Senior of Greenworks Barnsley Limited in respect of application reference 2024/0676 (the 'Application') for or the erection of a Greenworks Hub on a site at 6 Beacon Close Silkstone Common Barnsley ("the Site"). The Application is currently before you for determination. The purpose of this letter is to address a number of issues which we understand have been raised in connection with the consideration of the application as follows.

1. Vehicular rights of way to the Site

It is understood that you have queried whether there is a right to access the Site by vehicles. It is a well-established principle that private property rights are not material considerations when determining planning applications. Private property rights and planning matters are the subject of two distinct and separate regimes. It would therefore be unlawful to refuse the Application on grounds relating to private property rights. That said it is intended to access the Site via the drive between the Site from Ben Bank Road ("the 'Drive'").

The Drive is not registered at the Land Registry. Therefore, it is unclear as to the owner of the paper title to the Drive. It is understood that other local residents use the Drive without challenge, such as the occupiers at 40 Ben Bank Road, Silkstone Common.

The Site ultimately has the benefit of a prescriptive easement/right of way over the Drive.

Easements are frequently granted by express words in conveyances. However, they can also be acquired by prescription (habitual use as of right over a long period of time). There are three methods of acquiring an easement by prescription. In brief, the three methods are:

- Prescription under the Prescription Act 1832, which requires use for 20 years up until the claim is brought, with no interruption that lasts for more than 1 year.
- Prescription under Lost Modern Grant, which requires 20 years of continuous enjoyment at any time. After this, the Court will adopt a fiction that there was a historic grant of an easement

that has been lost. This fiction will persist even if there is direct evidence showing no grant was made.

- Prescription under the common law, which requires use from 'time immemorial'. In practice this means use for 20 years, and no evidence to show that there was any time after the year 1189 AD where the easement did not exist.

Use, in respect of any of the three methods, means use as of right.

Access to and from the Site has been enjoyed over the Drive without challenge by the owner of the Drive. As such, a legal right has arisen. In any event, should the use be challenged by the owner of the Drive (which is not anticipated), it would be a civil matter between the owners of the Drive and the owner of the Site. It is not for a planning authority to determine this.

2. Historic planning permissions

The Site has been the subject of three previous planning permissions (2013/1198 granted in November 2013, 2018/0713 granted in August 2018 and 2019/0723 granted in August 2019). It is understood that the Council does not consider that the existence of these permissions are a material consideration to the determination of the Application as it does not consider that any of these have been implemented or are extant. However, the 2018 planning permission was for the 'demolition of existing building and erection of a single storey building (resubmission)' and demolition took place to implement this permission. This was recognised in the grant of the 2019 permission which retrospectively granted permission for the demolition element of the development. As stated on the decision notice the grant was for 'Demolition of existing hall (retrospective) and erection of new hall (resubmission with amendments)'. Whilst there was a predevelopment condition on both permissions requiring the approval of a construction method statement ('CMP') which was not complied with, the Council could not have concluded that it went to 'the heart of the permission' as it granted permission retrospectively for the demolition in the 2019 permission. Further as demolition had already occurred any condition on the 2019 permission requiring approval of a CMP before demolition was clearly unenforceable. The permissions granted in 2018 and 2019 are therefore material considerations to the determination of the Application.

3. Access for emergency vehicles.

With a width of 3.8m and a length of 40m between the Site and Ben Bank Road, the Drive meets the minimum requirements for access by emergency vehicles.

4. Proposed vehicle movements and pedestrians.

The Drive is a public right of way for pedestrians. It is understood that more information has been requested about proposed vehicular movements along the Drive and potential impact on pedestrians.

Construction vehicular access to the Site would be controlled by a Construction Traffic Management Plan ('CTMP') regulated by a condition. A CTMP has been submitted with the Application. This states that HGVs will not use the Drive and 'During deliveries the contractor will employ a banksman to monitor the adjacent existing access and PROW to ensure any public using the PROW do not come into contact with any deliveries being transferred from B6449 into the site by contractor.'

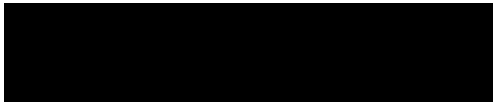
During the operation of the development vehicle movements will be very low. There will be no more than 4 vehicle movements and only on weekdays. There will be no vehicle movements at all on weekends. The 4 vehicle movements will be one access and one exit in the morning and one access

and one exit in the afternoon. The vehicle will be a Hyundai i800 which has a maximum capacity of 8 persons 3 of which are Blue Badge holders. The vehicle's dimensions are 1.9m wide and 5m long. There will be ample space on the Site for the vehicle to turn and the driver will be fully aware of the need to proceed with caution along the Drive. No other vehicles are expected to use the Drive as all staff, volunteers etc will be in the Hyundai. No on site or offsite parking will be required. When not in use the Hyundai will be kept away from the Site at other premises. It should be noted that these vehicle movements are likely to be significantly less than those generated by the previous use as a cub and scout hut. In any event they are so few that conflict with pedestrians is unlikely.

We trust the above is helpful in determining this application which, as we are sure you are aware, is for a social care day service provider providing supported employment provision for Barnsley Local Authority, assisting those with learning difficulties.

Please could you note that the application has been incorrectly referred to as a community centre. It is a hub for Greenwork's use only.

Yours sincerely

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Schofield Sweeney