

DANIEL ROY LEADBETTER

**STATEMENT FOR SECTION 73
APPLICATION FOR VARIATION OF
CONDITION NO 3 (EXTERNAL STORAGE)
ATTACHED TO PLANNING PERMISSION
NO 2015/0271**

**FOR LAND AT MUSCLE HILL FARM, LEE LANE, ROYSTON,
BARNSELY, S71 4RT**

1 Introduction

1.1 This Statement is submitted on behalf of Daniel Roy Leadbetter ("the Applicant") in support of an application to Barnsley Metropolitan Borough Council ("the Council") for variation of condition no 3 (external storage) attached to planning permission 2015/0271 ("the Application") on land at Muscle Hill Farm, Lee Lane, Royston, Barnsley, S71 4RT ("Application Land").

1.2 Condition 3 of planning permission 2015/0271 ("the 2015 Permission") reads as follows:

"3. There shall be no outdoor storage permitted on the site or adjoining land that is owned by the application.

Reason: In the interest of visual and residential amenity in accordance with Core Strategy Policy CSP 29 & CSP 40"

1.3 The Application seeks amendment of condition 3 on the 2015 Permission to allow for external storage on the Application Site subject to (i) a defined area which will be excluded from storage, and (ii) a second area for height restricted storage to the front of the Application Land. Townsend Planning Consultants have submitted the Application on behalf of the Applicant and full particulars are set out in its Planning Statement dated October 2025.

1.4 In email correspondence the Council has mentioned that Townsend Planning Consultants' Planning Statement mentions that "the agricultural enterprise includes the process of hay, straw and sawdust". It states that this was evident at the time of the site visit. The Council assert that the processing of sawdust is not considered an agricultural use and not does it fall within the scope of animal feed processing. As such, the Council suggest that this activity is considered unauthorised and this affects the processing of the Application.

1.5 The Applicant has instructed Clarion Solicitors to review the Council's representations on whether the present operations on the Application Land are lawful. Within this statement, we make representations on the Applicant's behalf regarding the lawful use of the Application Land.

2 Use of the Application Land

2.1 The Applicant uses the Application Land for agricultural purposes, and this involves the production of hay and straw. There is no manufacturing of sawdust on the Application Land per se but instead the sawdust is transported on to the Application Land. It is brought on to the Application Land as sawdust (as a finished product) and no processing of wood to make sawdust takes place. The predominant sales are for animal feed, and the Applicant estimates that this use accounts for over 75% of the produce with bedding a lesser part of the operations. The sawdust supplements products such as bedding, which it is mixed with. In respect of both the animal feed and bedding, no more than 25% involves sawdust. The Applicant buys and sells sawdust as a product but most of this is dealt with off-site.

2.2 It is noted that there isn't a condition on the 2015 Permission regulating the use of the Application Land but the description expressly refers to the "*production, storage and sale of animal feed*". The Council's contention is that the production of sawdust does not fall within the scope of the permitted use, but this is disputed for the following reasons:

- The use of sawdust for the processing of animal feed falls within the uses authorised under the 2015 Permission.
- Without prejudice to the submission above, any use of the Application Land for the storage of sawdust would be permitted on the basis that it would be ancillary to the principal approved uses under the 2015 Permission.

3 Use of sawdust for production of animal feed lawful under the 2015 Permission

3.1 The scope of use rights depends upon the source of those rights, and where the use has been instituted in implementation of a planning permission, the use is regulated by the

planning permission. A use of land is a lawful use if use is in accordance with the benefit of planning permission, whether express or deemed, under the Town and Country Planning Act 1990, and the continuation of the use remains in accordance with the terms of that permission.

- 3.2 The 2015 Permission permitted the '*production, storage and sale of animal feed*' and the sawdust is a component part of the production. The Applicant stocks and sells a large array of animal bedding including sawdust and straw blends for all types of farms to suit their slurry systems. Everything prepared on-site is sold on to farms nationwide and there is also approximately 15 tonnes per week of best white sawdust that is sold onto another agent where it is used as a carrying agent in vitamins for livestock. Considerable amounts of the best white sawdust are dealt with off-site, and much of the sawdust has no involvement on the Application Land.

4 Production of sawdust being ancillary to authorised use under the 2015 Permission

- 4.1 Without prejudice to the contention that the use and storage of sawdust on the Application Land is lawful under the 2015 Permission, it is submitted that this would be lawful in any event as it would be considered ancillary to the lawful use under the 2015 Permission.
- 4.2 Case law has established that an ancillary use can constitute a significant proportion of the overall activities on-site and still be regarded as ancillary, provided it is subordinate to the primary use and the assessment would be one of fact and degree
- 4.3 In *Emma Hotels Ltd v Secretary of State for the Environment [1979] and [1981]* it was held by the High Court that a non-residents' bar, for which separate permission had been granted, was incidental to the primary hotel use, even though only 20% to 30% of its customers were residents of the hotel. The court found that the bar remained within the category of "hotel" use, demonstrating that a significant ancillary activity could be part of the overall primary use, so long as it remains subordinate and functionally related to the main use. By concentrating on the primary use, planning control permits fluctuation in the level of ancillary activity and the initiation of new ancillary uses.
- 4.4 The use of sawdust relates to feeding and bedding, and the sawdust constitutes no more than 25% of the overall on-site production. The sawdust on the Application Land is clearly related to the main use authorised under the 2015 Permission, which is the production, sale and storage of animal feeds. The quantum of the present use is ancillary and certainly not to a level that could constitute a mixed use.
- 4.5 Case law has established that whether a use is ancillary or constitutes a separate primary use is a matter of functional relationship and not merely scale or geographical extent. This was clarified by the High Court in *Main v Secretary of State for the Environment (1998)* where it was held that the inspector had erred in treating "ancillary" as meaning relatively small. Where a particular use was unrelated to the main use so that it could not be said that it was "part and parcel" to that use, then the particular use could not be regarded as "ancillary" to the main use, notwithstanding that it might have been a relatively small use.
- 4.6 The sawdust is used for the production of animal feed and bedding, and this is clearly "part and parcel" to the authorised use under the 2015 Permission. There is a categorical functional relationship between the use and storage of sawdust and the use authorised under the 2015 Permission.
- 4.7 Any ancillary use must be carried on in the same planning unit as the primary use but it is clear that there is a single planning unit in operation for the purpose of the Application. It is recognised that a single primary use normally comprises a variety of different uses which might be differently classified for planning law purposes if they existed on their own. The variety of uses permitted in respect of the Application Land are referenced in the 2015 Permission.

5 Conclusion

- 5.1 Sawdust is not processed on the Application Land but is instead brought on separately and processed for the authorised uses. The storage and use of sawdust on the Application Land is permitted under the 2015 Permission.
- 5.2 Whilst it is recognised that the 2015 Permission does not expressly reference the storage and processing of sawdust, the presence of sawdust would be ancillary to the principal authorised use because it is used for agricultural purposes. It is thus part and parcel of the authorised use and there is a clear functional link.
- 5.3 In conclusion, the use and storage of sawdust on the Application Land is lawful under the 2015 Permission. The representations within this statement should satisfy the Council that the present use of the Application Land is lawful and there has been no breach of planning control with regard to its use since the issue of the 2015 Permission.