

PLANNING COMMITTEE,

7th February 2024

INFORMATION REPORT

APPEAL DECISION RECEIVED

Mr A Broadbent	Appeal against the refusal of a certificate of lawful use or development for operational and agricultural land at Land at Lincoln Road and Broad Gate, East Markham.
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DECISION: Appeal DISMISSED by the Inspector.

An application for a Lawful Development Certificate for an Existing Use or Operation for Operational/Agricultural Land at Land At Broad Gate, Lincoln Road, East Markham under delegated authority on 15th June 2023 for the following reason;

The information contained in the supporting documents has failed to demonstrate that the land in question constitutes 'Operational Land' for the purposes of statutory undertakers, as defined by Section 263 of the Town and Country Planning Act 1990.

The inspector considered that the main issue was whether the Council's decision was well-founded. That turns on whether the appellant can show, on the balance of probability:

- i.) that the uses either took place more than 10 years before the date of the application (that is from 5 April 2013) or in any other 10 year period;
- ii.) that the uses have either continued until the date of the application without material interruption so as to be immune from enforcement; or
- iii.) in respect to any other 10 year period, that the land has not been put to any other use inconsistent with the use for which the LDC is sought up to the date of the application.

The Inspector stated the following:

"The appeal site comprises two parcels of land either side of a railway line running north/south through East Markham. The Council were satisfied that it had been demonstrated that both parcels of land had been used for agricultural purposes for the relevant period and I see no reason to take a different view."

"..although the appellant has demonstrated the history of land ownership and the benefits of an operational land designation, none of the documents demonstrate that there has been an uninterrupted active use by statutory undertakers for a 10 year period. ...In my view it is more likely than not that the land was only comparable to land in general rather than operational land or land held for that purpose and not actively used as such by statutory undertakers."

The Inspector concluded:

“I have had regard to all of the appellant’s submissions. My conclusion is that he has failed to show, on the balance of probabilities, that there has been any use of the land by statutory undertakers as operational land.”

A copy of the Inspector’s decision letter follow this report.

OFFICER RECOMMENDATION: Refuse

FINALISED DECISION LEVEL: Delegated