



Chief Planner  
London Borough of Bromley  
Civic Centre  
Stockwell Close  
Bromley BR1 3UH  
For the attention of Mr T Horsman

18 March 2016

OUR REF:JE/DD/12/255/FD

Dear Mr Horsman,

**APPEAL BY MR D DRISCOLL**  
**WESTERHAM RIDING SCHOOL, GRAYS ROAD, WESTERHAM**

I refer to my letter to you of the 1<sup>st</sup> March and the draft Statement of Common Ground that I sent to you on the 2<sup>nd</sup> March. Mr Bord of your Department replied on the 8<sup>th</sup> March.

You will by now have seen the written judgement in the case of LB Bromley v Secretary of State for Communities and Local Government and Rookery Estates Company. I think it fair to say that the Court was rather critical of the Council's challenge. The Court concluded at para 36 of the Judgement that;

***“It is unnecessary to gloss the paragraph 89 exceptions and they should be read naturally and in the context that it is part of the statutory planning code that permission for new buildings always carries with it permission for the use of the buildings.”***

The Court went further in para 47 of the Judgement and stated that;

***“Providing new buildings fall within the use and other restrictions of the applicable indent of paragraph 89, the mere fact that permission for a new building may also involve a material change of use does not mean that it ceases to be appropriate development”***

The Judge further observed that;

***“In my judgement the approach urged by the claimant (LB Bromley) would also produce absurd results as was demonstrated by the examples Miss Grogan gave during argument.”***

In the circumstances, and bearing in mind that your Council's case on Green Belt appropriateness in respect of the above appeal would appear to rely entirely on the principle of the change of use to residential (there being no allegation in your statement of harm arising to the openness of the Green Belt as a result of the appeal proposal), I again invite you to withdraw the first reason for refusal and to confirm such in the Statement of Common Ground.



In the event that you decline to do so, I must advise that the appellant will be making an application for costs against the Council on the basis of the Council's continuing unreasonable behaviour.

In view of the imminence of the appeal Hearing, your prompt response would be appreciated.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'John Escott', written over a horizontal line.

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COPY: Mr J Kehoe  
Mr D Bord  
Mr D Driscoll