
**WL-252B – FORMAL NOTICE OF PROCEDURAL UNFAIRNESS, S278
SUPPRESSION & INCONSISTENT TREATMENT**

Addressed To:

The Planning Inspectorate (PINS)

Date: 16 November 2025

From: George Denny – Kyngs Golf & Country Club

Application: 24/01157/HYB

Related Appeal: APP/K2420/W/25/3372919 (Richborough Estates)

Adjacent Application: 24/01079/OUT (Richborough Estates)

**FORMAL NOTICE OF PROCEDURAL UNFAIRNESS & INCONSISTENT
TREATMENT**

(Including suppression of KGCC's extant S278 access rights, Certificate irregularities, greenfield misclassification, misdirection of statutory consultees, altered Officer Reports, and the acceptance of appeal APP/K2420/W/25/3372919 on an unlawful and contaminated baseline)

Dear Planning Inspectorate Team,

This submission ("WL-252B") accompanies WL-252 and WL-252 Addendum v4 (ON NOTICE).

Together, these documents demonstrate:

- suppression of KGCC's lawful S278 rights

- contamination of the ecology/BNG baseline
 - procedural unfairness
 - material error of fact (greenfield misclassification)
 - misdirection of statutory consultees
 - inverted Certificate A/B treatment
 - Highways misdirection on legal access baselines
 - inconsistency between adjacent applications
 - systemic disadvantage applied uniquely to 24/01157/HYB
 - and the acceptance of appeal APP/K2420/W/25/3372919 based on an altered and contaminated baseline
-

For clarity, all references to “R3” within this document refer to the statutory highways consultee, Leicestershire County Council Highways (LCC Highways), as labelled on the HBBC planning portal.

1. EXECUTIVE SUMMARY – PATTERN OF UNEQUAL TREATMENT

HYB is the only scheme where:

- the extant 2003 S278 access right was suppressed
- validated ecology/BNG submissions were not circulated
- wrong PEA/BNG documents were used by HBBC
- Ecology advice conflicted for 7 months (Jan → June → July)
- the site was wrongly treated as greenfield

- Highways applied an incorrect legal baseline
- the case officer demanded Certificate B from the actual beneficiary
- HBBC accepted two false Certificates A from Richborough
- senior officer S278 knowledge was ignored
- inconsistent, harsher thresholds were applied only to HYB

Richborough (24/01079/OUT)

- – Unallocated greenfield
- – No S278 rights
- – False Certificate A twice
- – BNG net loss (–8.81%)
- – DLL refused; EPSL impossible
- – Recommended for approval
- – Only admitted KGCC via Certificate B at appeal

9 Lodges (KGCC)

- – Same allocation as HYB
- – Wrong PROW baseline drawn across BNG/runway
- – Highways objections generated artificially
- – Suffered delay
- – Not subjected to S278 suppression
- – Treated within policy following PINS findings

HYB (KGCC)

- – Sole lawful S278 beneficiary

- – Allocated Tourism/Leisure land
- – Extant engineered development
- – Correct ecology/BNG baseline
- – Suppressed in ALL categories

This is procedural unfairness and apparent bias.

2. ECOLOGICAL TIMELINE FAILURE (HYB ONLY)

• January 2025 – Initial LCC Ecology Review

Missing statutory BNG, incorrect PEA assumptions, AIA contradiction, unresolved bat features, further surveys requested.

• February 2025 – Updated PEA Not Circulated

Updated PEA submitted 20 Feb; Alex's auto-reply proved absence; document not circulated.

• March–May 2025 – Wrong Baseline Used

Superseded PEA v1–v3 and wrong BNG spreadsheets used by HBBC/LCC.

• June 2025 – Holding Objection

Mandatory BNG missing; metric errors; veteran Ash wrong; priority ponds undeliverable.

• July 2025 – Unexplained “No Objection”

No new evidence; same defective baseline; prior concerns ignored.

This is consultee misdirection and procedural irrationality.

2A. INCORRECT “GREENFIELD” CLASSIFICATION – MATERIAL ERROR OF FACT

HYB was repeatedly classified by HBBC/LCC as “greenfield” (for example, LLFA referring to HYB as “11 ha greenfield”). This classification is factually wrong. HYB is:

- an engineered extant development (terraces, cut-and-fill platforms, engineered drainage, existing groundworks)
- an allocated Leisure & Tourism site
- supported by extant use rights confirmed in multiple PINS appeals
- served by a legally implemented 2003 S278 ghost-island

Despite this, HBBC/LCC applied:

- greenfield runoff rates
- greenfield ecological assumptions
- greenfield sensitivity tests
- and stricter thresholds than those applied to Richborough

This is:

- a **material error of fact** (E v SSHD)
- **baseline contamination** (Kides)

- **unequal treatment** (Gunning)
 - **procedural unfairness**
-

3. HBBC'S FATAL ECOLOGY & BNG ERRORS

HBBC:

- failed to circulate HYB submissions
- circulated wrong or superseded documents
- allowed objections based on irrelevant material
- never required updated ecology/BNG work from Richborough
- applied unequal thresholds
- and failed to correct consultee misdirection

This conduct is unlawful and procedurally unfair.

4. LEGAL CONSEQUENCES

To determine HYB on a contaminated baseline is legally fatal.

HBBC cannot lawfully determine HYB unless the WL-252 corrected baseline is applied.

Reliance on the July consultee position is:

- irrational (**Wednesbury**)
 - procedurally unfair (**Gunning**)
 - based on irrelevant considerations (**Fewings**)
 - contrary to **Kides** and statutory BNG duties
 - inconsistent with **NPPF 38**
-

5. COMPARATIVE ANALYSIS – HYB / RICHBOROUGH / 9 LODGES

HYB (KGCC)

- Allocated Tourism/Leisure site
- Sole S278 beneficiary
- Extant engineered development
- Correct PEA, BNG and drainage baseline
- Misclassified as greenfield
- Suppressed across all categories

Richborough (24/01079/OUT)

- Unallocated greenfield
- No S278 rights
- False Certificate A twice
- BNG net loss (–8.81%)
- DLL refused; EPSL impossible
- Recommended for approval despite fatal flaws

9 Lodges (KGCC)

- Same allocation as HYB
 - False PROW baseline drawn across BNG/runway
 - Delay and objections
 - Not subjected to S278 suppression
-
-

6. HIGHWAYS (LCC HIGHWAYS – “R3”), S278 RIGHTS & CERTIFICATE IRREGULARITIES

6.1 KGCC is the Sole S278 Beneficiary

The 2003 S278 Agreement benefits KGCC alone.

Richborough/Veros is not a beneficiary.

6.2 Veros Is Landowner, Not Beneficiary

Land ownership does not confer S278 highway entitlement.

The S278 benefit did **not** transfer to Veros.

6.3 HBBC Confirmed the S278 Conflict

HBBC acknowledged in writing that Richborough’s proposed access

“clashes with and infringes the S278.”

6.4 HBBC Demanded Certificate B From KGCC (Incorrectly)

HBBC insisted KGCC serve notice on Richborough —
despite having the S278 plan in the validated HYB file.

6.5 HBBC Accepted Two False Certificate A Declarations From Richborough

Under DMPO 2015, the applications were invalid.

HBBC did not invalidate them.

6.6 Breach of DMPO 2015

An LPA must reject or invalidate an application with a false certificate.

HBBC did neither.

6.7 Richborough Admitted the Truth at Appeal (Certificate B)

In APP/K2420/W/25/3372919, Richborough finally named KGCC as an affected landowner
—

proving both of their Certificate A declarations were false.

6.8 PROW Suppression in the 9 Lodges

HBBC relied on a false PROW plan drawn across KGCC's BNG land and runway,
creating fabricated objections and delay not applied to Richborough.



6.9 Senior Officers Already Knew the S278 Was Live

- **Chris Brown** confirmed the S278 Agreement is extant and cannot be overridden.
- **Edward Stacey** was directly copied into **Tim Hartley's January 2025 email** confirming S278 enforceability and warning of legal implications for any conflicting access.

6.10 Highways Assessed HYB on the Wrong Baseline

The R3 response dated 07/11/25:

- omitted KGCC's extant S278
- used a hypothetical **Richborough-first** baseline
- claimed HYB "needs no works if Richborough build first"

This is **legally wrong**, procedurally irrational and misdirects the baseline.

6.11 Prior PINS Notification – Misrepresentation of S278 Baseline

PCN v5 (APP/K2420/W/25/3372919) already notified PINS that HBBC/LCC misrepresented the S278 as "no longer live" in the 2020 appeal.

6.12 Misappropriation of KGCC S278 Traffic Capacity

The ghost-island was legally required for KGCC's safe operation.

KGCC's 1992 refusal proves this.

Traffic capacity legally assigned to KGCC **cannot** be:

- transferred
- shared
- allocated
- or consumed by Richborough

HBBC/LCC treated KGCC's entitlement as available for a third-party developer.

This suppressed KGCC's lawful position and extant business expectation.

7. PATTERN OF ADMINISTRATIVE ERRORS

(Updated to include Archaeology and LVIA)

HYB alone suffered:

- S278 suppression
- allocation suppression
- greenfield misclassification
- ecology suppression
- BNG suppression
- archaeology delays based on an incorrect baseline
- LVIA delays based on an incorrect baseline

- consultee misdirection
- certificate inversion
- Highways baseline errors
- transfer of KGCC's S278 capacity
- harsher thresholds

Richborough suffered none.

9 Lodges suffered only a PROW mapping error.

This constitutes **apparent bias**.

8. LEGAL STANDARD BREACHED

HBBC's conduct breaches:

- **Kides** – inconsistent baselines; failure to consider material considerations
- **Fewings** – reliance on irrelevant considerations
- **Wednesbury** – irrationality; inconsistent or illogical reasoning
- **Gunning** – fairness principles; inconsistency of treatment
- **CreedNZ** – improper purpose; misdirection of statutory duty
- **Article 6 ECHR** – appearance of bias; unfair procedure
- **NPPF 38** – duty to act positively, transparently and fairly

9. REQUIRED ACTION – FORMAL NOTICE

HBBC must:

- adopt the WL-252 corrected baseline
 - recognise KGCC's extant S278 rights
 - correct Highways misdirection
 - cease treating the S278 as transferable to Richborough
 - apply equal and consistent thresholds
 - disregard contaminated baseline material
 - confirm HYB will not be refused unlawfully
-

10. RESERVATION OF RIGHTS (PRE-JR NOTICE)

KGCC will rely on WL-252 and WL-252B in Judicial Review proceedings if HBBC:

- issues any refusal based on contaminated evidence
 - suppresses KGCC's lawful S278 rights
 - applies unequal thresholds
 - continues procedural unfairness
-

11. OFFICER REPORT MANIPULATION – FULL ACCUMULATION OF PROCEDURAL FAILURES (JULY vs AUGUST 2025)

HBBC produced **two materially different Officer Reports** for Richborough (24/01079/OUT), dated **31 July 2025** and **12 August 2025**, despite **no new evidence** being submitted.

The changes demonstrate procedural manipulation, baseline switching and the suppression of material facts.

A. HIGHWAYS & S278 UNLAWFUL ADMISSIONS

- July version recognised Richborough's dependence on KGCC's extant S278
- August version erased all S278 references
- August introduced a hypothetical Richborough ghost-island
- HBBC removed acknowledgement of the access clash they later admitted
- Baseline switching without evidence is a *Kides* breach

JR Grounds: G1, G2, G3, G4, G5

B. ECOLOGY UNLAWFUL ADMISSIONS

- July report recorded unresolved ecology concerns
- August report deleted or minimised these concerns without new evidence
- Ecology concerns reframed as "acceptable subject to conditions"
- HYB faced stricter thresholds despite a compliant baseline

JR Grounds: G1, G2, G3, G5

C. BNG UNLAWFUL ADMISSIONS

- July report acknowledged Richborough's **BNG net loss (–8.81%)**

- August report downplayed or removed reference to the deficit
- DLL refusal and EPSL impossibility omitted
- HYB met BNG but was treated more harshly

JR Grounds: G1, G2, G3, G4, G5

D. DRAINAGE / LLFA UNLAWFUL ADMISSIONS

- July highlighted drainage inconsistencies
- August deleted these concerns without resolution
- Drainage reframed as “acceptable subject to conditions”

JR Grounds: G1, G2, G3, G5

E. LANDSCAPE & POLICY UNLAWFUL ADMISSIONS

- July referenced Inspector-recorded harm
- August diluted harms and inflated benefits
- No new evidence submitted

JR Grounds: G1, G2, G3, G4, G5

F. PLANNING BALANCE UNLAWFUL ADMISSIONS

- July version did not support approval

- August version recommended approval despite identical evidence
- Weighting altered solely through narrative

JR Grounds: G1, G2, G3, G4, G5

G. UNEQUAL TREATMENT

- HYB held to an unfairly higher standard
- Richborough's failures were hidden; HYB's rights suppressed

JR Grounds: G1, G2, G3, G5

H. NO JUSTIFICATION PROVIDED

- No addendum or update explained the changes
- No new consultee responses
- Baseline-switch entirely unexplained

JR Grounds: G1, G2, G3, G5

I. PUBLIC DOCUMENT INTEGRITY BREACH

- Contradictory reports remain published
- Changes visible, timestamped and unexplained
- Forms strong admissible JR evidence

JR Grounds: G1, G2, G4, G5

Collectively, these failures trigger all relevant Judicial Review grounds.

11A. JUDICIAL REVIEW GROUNDS MATRIX (EXPLANATION ONLY)

G1 – Procedural Impropriety

(bias, unfairness, duty of candour, failure to follow statutory procedure)

G2 – Irrationality / Wednesbury

(inconsistent or illogical reasoning; perverse outcomes)

G3 – Failure to Consider Material Considerations (Kides)

(incorrect baseline; omission of relevant evidence)

G4 – Taking Irrelevant Considerations into Account (Fewings)

(weight given to immaterial factors; incorrect planning balance)

G5 – Legitimate Expectation / Consistency (Gunning / Article 6)

(equal treatment; fair consultation; impartial process)

This section intentionally omits the repeated A–I JR mapping as agreed.

11B. LEGAL AUTHORITIES ENGAGED

1. **Kides v South Cambridgeshire DC [2002]**

Inconsistent baselines; failure to consider material considerations.

2. **R v Somerset CC, ex p Fewings [1995]**

Reliance on irrelevant considerations; improper purposes.

3. **Associated Provincial Picture Houses v Wednesbury Corporation [1948]**

Irrationality; illogical or perverse decisions.

4. **R v Brent LBC, ex p Gunning**

Fairness in consultation and decision-making; consistent treatment.

5. **CreedNZ v Governor-General [1981]**

Improper purpose; misdirection of statutory function.

6. **Article 6 ECHR**

Right to a fair hearing; appearance of bias.

7. **NPPF 38**

Duty to act reasonably, positively, and transparently.

12. UNLAWFUL DETERMINATION OF A CERTIFICATE B-DEFICIENT APPLICATION

HBBC published Late Items for the Richborough application (24/01079/OUT) that explicitly acknowledged that Certificate B had **not** been served on KGCC. This admission confirmed that the application was **invalid under the DMPO 2015** and could not lawfully proceed to committee determination.

Despite this, HBBC:

- acknowledged in Late Items that KGCC had not been notified
- accepted that Certificate B was defective under DMPO 2015
- accepted that KGCC was an affected landowner
- received written representations from KGCC raising the Certificate B failure
- heard oral statements confirming invalidity at committee
- nevertheless proceeded to debate and determine the application
- issued a recommendation and decision knowing the application was not validly before them

These actions constitute the **determination of an invalid application**, which is procedurally **ultra vires, irrational, and contrary to statutory duty**.

Determining an invalid application breaches:

- DMPO 2015 requirements
- Procedural fairness (Gunning)
- Wednesbury rationality
- Kides (material consideration and baseline)
- Article 6 ECHR
- The duty of candour

The unlawful determination directly contaminated:

- the Officer Reports
- the appeal baseline
- the Richborough case now before PINS
- subsequent highways advice

- and the treatment of HYB

JR Grounds: G1, G2, G3, G4, G5

13. COORDINATED SUPPRESSION OF KGCC'S LAWFUL S278 RIGHTS TO FACILITATE RICHBOROUGH ACCESS

A clear, consistent and documented pattern demonstrates that HBBC, LCC Highways (R3) and the applicant (Richborough/Veros) acted in a coordinated manner that resulted in the suppression of KGCC's lawful 2003 S278 rights and the artificial promotion of Richborough's position in relation to Station Road access.

- HYB suffered repeated delays and heightened thresholds
- Richborough received softened assessments and favourable alterations
- R3 issued contradictory consultee responses, omitted the extant S278 baseline and applied a hypothetical Richborough-first baseline
- HBBC's second Officer Report removed all S278 conflict despite HBBC later acknowledging the infringement
- HYB's lawful allocation and S278 rights were excluded from consultee briefings
- HBBC accepted two false Certificates A from Richborough, while demanding Certificate B from KGCC
- Late Items acknowledged the Certificate B defect, yet HBBC proceeded to determine the application
- Richborough filed a four-day appeal and have now served Certificate B on KGCC
- HBBC's refusal attempt on HYB aligns with R3's baseline inversion, suppressing KGCC's extant business expectation while facilitating Richborough's access position

These combined actions demonstrate:

- inconsistent baselines
- misdirected consultees
- unequal treatment
- suppression of KGCC's lawful access rights
- concealment of adverse information
- advancement of a developer's interest through unfair means

This coordinated pattern engages Judicial Review Grounds **G1, G2, G3, G4 and G5**.

Collectively, the evidence across Sections 1–13 confirms a procedural system in which KGCC's lawful rights and allocated development have been suppressed, misrepresented or ignored, while Richborough's interests have been advanced through manipulated baselines and unlawful determinations.

13A. COORDINATED SUPPRESSION SEQUENCE

What is now proven is the clearest, most accurate description of the coordinated manoeuvre that HBBC, LCC Highways (R3) and Richborough/Veros executed. It is now fully evidenced, chronological, documented and admissible. Set out below is the strategic plan itself — the motive, the pattern, the execution and the outcome all in one narrative.

1. Delay KGCC (HYB) in every consultee stream

Even though HYB is:

- allocated
- extant
- policy-supported

- compliant in every baseline
- the only lawful S278 beneficiary

HBBC and R3 deliberately:

- delayed Ecology (misdirected baseline, wrong documents)
- delayed LLFA (greenfield error, confusion over non-issues)
- delayed Archaeology (incorrect baseline)
- delayed Highways (“waiting for R3” despite knowing the S278 position)
- delayed LVIA (based on an incorrect baseline)
- blocked internal circulation (Alex auto-reply, misfiled PEA v4)
- constantly reopened consultations

This kept HYB off the table long enough for Richborough to move ahead.

2. Fast-track Richborough, despite fatal flaws

HBBC manipulated:

- Ecology
- BNG
- LLFA
- Highways
- Landscape
- the Planning Balance
- and the committee reports

to produce a false recommendation of approval.

Every fatal flaw in the July officer report was:

- deleted
- softened
- or inverted in the August report

This ensured:

☆ **Richborough was heard FIRST at committee.**

Hearing Richborough first was essential for the plan to work.

3. The “bridge” manoeuvre — HBBC claimed the KGCC S278 access could accommodate BOTH schemes

HBBC told:

- YOU
- the COMMITTEE
- the PUBLIC
- and ultimately, RICHBOROUGH

that:

☆ **“The KGCC extant access and ghost-island can accommodate both the Richborough development AND HYB.”**

This statement is:

- false
- unlawful
- against S278
- contradicts R3's own email
- contradicts all legal baselines
- contradicts the 2003 agreement
- is procedurally irrational

It positioned Richborough to rely on and benefit from KGCC's lawful S278 entitlement.

4. Richborough REFUSED — but on non-highway grounds

Even though:

- their scheme should not have been heard,
- their Certificate B was defective,
- Late Items confirmed KGCC had not been notified,
- the S278 conflict was known,
- and HYB raised these issues formally and orally,

HBBC still determined the application.

This behaviour is beyond any reasonable standard expected of a public authority.

5. Richborough appeal accepted — built on a contaminated, manipulated baseline

Once the appeal was accepted:

- HBBC insulated Richborough from the S278 conflict
- PINS was misled into accepting the appeal
- the appeal progressed as if no baseline defects existed

This marked the beginning of the second phase of the strategy.

6. Highways suddenly lift the block on HYB — ONLY after Richborough appeal accepted

After months of:

- “waiting for R3”
- “cannot obtain highways response”
- “cannot confirm the baseline”

R3 suddenly switched stance:

☆ **“KGCC access can accommodate all traffic numbers of both Richborough and HYB.”**

This reversal occurred **only after** Richborough’s appeal was accepted, fully aligning with Richborough’s appeal needs.

7. Immediately after Highways cleared HYB, Alex tries to refuse HYB on non-highway grounds

Alex's attempted refusal:

- removed HYB from active progression
- froze HYB on non-highway grounds
- suppressed KGCC's S278 leverage
- restricted KGCC's ability to exercise extant rights
- freed the access corridor for Richborough
- provided Richborough with a "clean" appeal argument
- left KGCC effectively "arms behind back"
- destroyed legitimate business expectation
- fulfilled R3's earlier indication that Richborough could "take over" the ghost island

There is no innocent explanation for this sequence.

8. The entire pattern shows deliberate cross-authority coordination

The documentary record now shows:

☆ **A coordinated plan to suppress KGCC's lawful S278 rights so a private developer could obtain access via Richborough's appeal.**

Between:

- HBBC Planning
- HBBC Legal (through inaction)

- LCC Highways (R3)
- the altered Officer Reports
- the Late Items admission
- the manipulated baselines
- the blocked HYB determination
- the sudden R3 reversal
- the immediate refusal attempt
- the Richborough appeal strategy

The pattern is unmistakable.

This section represents the motive, the pattern, the execution and the outcome — all evidenced, chronological and admissible.