

MEMO

FROM: Madelaine Clavey
OUR REF: 21/00168/COU
TO: Head of Legal Services (FAO Catherine Knight)
DATE: 29 April 2022
RE: Proposed enforcement action at Shedfield Equestrian Centre, Botley Road, Shedfield, Hampshire: Unauthorised material change of use to B2 (General Industrial) (Homestead Concrete Pumping & Southern Blast and Paint Limited).

Please find attached a draft Enforcement Notice in respect of the above breach of planning control.

Would you please arrange to serve the notice as set out in the draft or in terms you consider appropriate ASAP.

1.0 INTRODUCTION

- 1.1 A full site review has been undertaken following a number of reports of alleged breaches of planning control made to the Council concerning development/activities at Shedfield Equestrian Centre. The full review can be viewed at Appendix A.
- 1.2 This report concerns businesses Homestead Concrete Pumping and Southern Blast and Paint Limited. One is a concrete pumping business and the other is a cleaning and spray painting business. They both occupy the building shown in the location as shown hatched in red on attached plan (Appendix B). An area of land around the building is also occupied by the businesses and is enclosed with fencing.



(WCC Officer Photo 2022)

- 1.3 A Planning Contravention Notice (PCN) was served on the owner on 07/07/2021 and was returned completed on 11/09/2021 (included with Appendix A).
- 1.4 Also within the fenced area of the depot are three containers, with two creating a double storey building. The top container appears to be an office/rest area, with scaffold poles used to create steps and rails. These buildings are used by Homestead Concrete Pumping and sit within the compound for this business. The compound appears to be a shared area between the two businesses.

2.0 BACKGROUND

2.1 HISTORY

No relevant history.

- 2.2 There is no planning permission for the use or buildings/containers.
- 2.3 The change of use to B2 in this area is a material change of use for which express planning permission is required as the lawful use of the land in this case is agricultural.
- 2.4 Aerial imagery (WCC GIS Map) from 2013 and 2017 shows this area free from development and empty, with a number of trees on the land. The use of the land as B2 can therefore not be considered immune under the 10 year rule as the period for immunity has not yet elapsed (2027).



(WCC 2013)



(WCC 2017)

- 2.5 The latest aerial imagery (WCC GIS Map) shows the building/containers not in situ. Therefore the building/containers, regardless of their use, are not considered to be immune under the 4 year rule. In addition, in response to question 4.146 of the PCN the owner states that this building was “erected within the past couple of years”.
- 2.6 In response to question 4.145 of the PCN the owner states that the containers were brought onto the land by the owner “for the storage of materials for the fire reconstruction works” (2018) and “the tenant has taken on the rental as part of their tenancy”. The containers can therefore not be considered immune under the 4 or 10 year rule.



(WCC Latest)

EXPEDIENCY

- 3.1 The use of the land in question for B2 is not considered to be immune under the 10 year rule and the building/containers are not considered immune under the 4 year rule regardless of their use.
- 3.2 The reasons for taking enforcement action are set out in section 4 of the attached draft enforcement notice and noted below for information:

The development is contrary to policies MTRA3 and MTRA4 of the Winchester District Local Plan Part 1 - Joint Core Strategy, in that it results in inappropriate development within the countryside with no justification.
- 3.3 The Council does not consider that planning permission should be granted. Planning conditions would not overcome these objections to the development.
- 3.4 This enforcement notice will not seek to have the removed protected trees replanted. The Council have an ongoing prosecution relating to the unauthorised removal of protected trees across the entire site (Shedfield Equestrian Centre) and after consulting with the Tree Team, it was decided that this was the best way to proceed.

4.0 HUMAN RIGHTS

- 4.1 The Human Rights Act 1998 makes it unlawful for the Council to act in a way incompatible with any of the Convention rights protected by the Act unless it could not have acted otherwise. In arriving at the recommendation to take enforcement action, careful consideration has been given to the rights set out in the European Convention of Human Rights including Article 6 (right to a fair trial), Article 8 (right to respect for private family life), Article 14 (prohibition of discrimination in enjoyment of convention rights) and Article 1 of the first protocol (the right to peaceful enjoyment

of possessions). It is considered that where there is an interference with the rights of the recipient of an enforcement notice, such interference is considered necessary for the following reasons: the protection of the environment and the rights and freedoms of others. It is also considered that such action is proportional to the legitimate aim and in the public interest.

4.2 Two sets of tenants would be required to vacate the premises as a result of this enforcement notice should it be complied with. An extended period for compliance will be offered to ensure enough time is given to find alternative premises. In addition, the tenants will be referred to the Economies team at Winchester City Council for advice.

5.0 SERVICE

5.1 I have attached a draft enforcement notice and plan and a copy of the Land Registry documents.

5.2 Notices to be served on:

Owner

- CHRISTOPHER IAN COLLINS of Ivy Cottage, Wickham Road, Curdridge, Southampton SO32 2HG.

Occupiers

- A copy of the enforcement notice to be hand delivered to the occupier(s).

5.3 A copy of the notice needs to be displayed on site.

5.4 Notice to be served by hand.

5.5 The deemed application fee is £924 (£462 x 2 (double the application fee)) (Change of use of land).

6.0 ENCLOSED:

- *Draft enforcement notice*
- *Draft enforcement notice plan*
- *Land Registry documents*

7.0 DELEGATED AUTHORITY

I, Lorna Hutchings, being duly authorised to act for and on behalf of Winchester City Council with the powers delegated to me as Planning Delivery and Implementation Manager, do hereby authorise the proposed enforcement action in accordance with the above report and attached draft enforcement notice.

..... Lorna Hutchings 06.05.2022

Lorna Hutchings
Planning Delivery and Implementation Manager

