

## 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 storage and distribution of wood.

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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 the storage and distribution of wood on land as shown outlined in red on attached plan (Appendix B).
- 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).

### 2.0 BACKGROUND

#### 2.1 HISTORY

No relevant history.

- 2.2 There is no planning permission for this use or the building.
- 2.3 The change of use to storage and distribution of wood 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 shows this area free from development and empty. The use of the land as storage and distribution can therefore not be considered immune under the 10 year rule as the period for immunity has not yet elapsed (2023).



(WCC 2013)

- 2.5 Aerial imagery from 2017 shows this area having been cleared of trees and buildings erected. The building in question has been erected since 2017, as shown in aerial images below.



(WCC 2017)



(WCC Latest Aerial Imagery)

- 2.6 In response to question 4.114 of the PCN the owner states that this building was “involved in the destruction of the previous buildings by fire, and reconstructed as part of the reconstruction work. This is a woodshed, for storage and distribution. There was a building in situ previously, which was replaced following the extensive fire damage in June 2018”. As confirmed by the owner, a new building was erected in June 2018, and is used for storage and distribution, resulting in a material change of use of land; this includes the erection of the building. No evidence was provided as to the use of the previous building in this area.
- 2.7 Aerial imagery (WCC GIS Map) from 2017 does not show the building in situ, however there is some evidence of trees possibly having been removed and what appears to be some small buildings. The use of these buildings and this land at this time (2017) is not known.
- 2.8 The building, even if considered under the 4 year rule, would not be immune as it was constructed sometime after June 2018, as stated by the owner.
- 2.9 The building will be subject to the Murfitt principle as it is considered to be part and parcel of the unauthorised material change of use.

### **EXPEDIENCY**

- 3.1 The use of the land/building in question for storage and distribution of wood is not considered to be immune under the 10 year rule.
- 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 One set 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).

##### Charge

- BARCLAYS SECURITY TRUSTEE LIMITED (Co. Regn. No. 10825314) of P.O. Box 16276, One Snowhill, Snowhill Queensway, Birmingham B2 2XE. NOTE: Charge reference HP433379.

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

5.4 Notice to be served by hand.

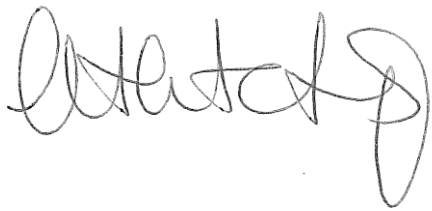
5.5 The deemed application fee is £924 (£462 x 2 (double the application fee)) (Change of use of land).

**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.



06.05.2022

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**Lorna Hutchings**  
Planning Delivery and Implementation Manager  
Build Environment  
Winchester City Council