

MEMO

FROM: Madelaine Clavey
OUR REF: 21/00168/COU
TO: Head of Legal Services
DATE: 30 June 2022
RE: Proposed enforcement action at Shedfield Equestrian Centre, Botley Road, Shedfield, Hampshire: Unauthorised material change of use to B8 (storage) (Test Valley Environmental, RGSC Groundworks, and others), associated parking and unauthorised engineering operations.

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 area used by Test Valley Environmental, RGSC Groundworks, and others; these companies occupy the land shown in the approximate location as shown outlined in red on attached plan (Appendix B).
- 1.3 These companies use the land for storage, as confirmed by the owner of the land, who leases it to them. An area is also used for parking of vehicles in association with the storage use of the land.
- 1.4 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 the use or the containers/engineering operations.
- 2.3 The change of use to B8 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 In response to questions 4.99 and 4.108 of the PCN the owner states that the land is used for “open land and storage”, and “open storage and containers, plant and machinery”, and in response to question 4.113 of the PCN the owner states that the diggers on site are used for the “loading and unloading of material, so far as the owner is aware”.
- 2.5 In response to question 4.109 of the PCN the owner states that the use of the land for “open storage and containers, plant and machinery” started in 2017.
- 2.6 The land has been raised significantly, with a retaining wall created to the south from tires filled with concrete. Photos below:





(WCC Officer Photos 2022)

- 2.7 The land raising has been more recent and gradual. The enforcement officer has witnessed it over the period of a year. The photos below show the land without the retaining wall and the land level with the adjacent land.



(WCC Officer Photos 2021)

- 2.8 The raising of the land is considered to be engineering operations due to the scale of the raising. The land has been raised approximately 1 metre at its highest point, across approximately 5300 square metres of land. The natural ground level is easy to see on all sides. The land slopes up from the track to the east, and slopes back down towards the solar farm to the west. Some areas have had hardstanding laid. The land appears to also slope towards to north to meet the natural ground level.

- 2.9 It is not understood why the land needed to be raised to accommodate such a use; however previous visits and photos indicate that waste disposal may have been used to make the land higher. The land opposite the site (to the east) has also been raised by the owner.
- 2.10 Aerial imagery (WCC GIS Map) from 2013 show this area free from development and empty, with a number of trees on the land. This is also true from 2017 imagery. As the current use of this land started after 2017 it cannot be considered immune under the 10 year rule as the period for immunity has not been exceeded (2027).



(WCC 2013)



(WCC 2017)

EXPEDIENCY

- 3.1 The use of the land in question for B8 storage is not considered to be immune under the 10 year rule and the containers/engineering operations are not considered immune under the 4 year rule regardless of their use as no evidence has been submitted to substantiate this.
- 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.

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 At least three sets of tenants would be required to vacate the premises as a result of this enforcement notice should it be complied with. However, as far as the Council is aware, this land is not the companies' registered address and is only used for storage. Therefore an extended period for compliance is not deemed to be required. The tenants will however be referred to the Economies team at Winchester City Council for advice should they need it.

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 will be displayed on the land.

Copied of the enforcement notice will be sent to the registered addresses of the companies known to occupy the land.

Charges

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

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

- 5.4 Notices 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.



DATE 08.07.2022

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