

Our ref: 51486-EN11
Project Name: APP/L1765/C/23/3331896



Hannah Rogers
The Planning Inspectorate
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Sent by email to TeamE4@planninginspectorate.gov.uk

4 January 2024

Dear Hannah

Town and Country Planning Act 1990
Appeal by Shedfield Equestrian Centre ref. APP/L1765/C/23/3331896
Site Address: Shedfield Equestrian Centre, Botley Road, Shedfield, Hampshire, SO32 2HN

I write on behalf of the Appellant regarding the above and in response to the local planning authority's (LPA) Written Statement of Case (SoC) in response to the above appeal, received in an email from PINS dated 18/12/2023. The Appellant wishes to further address some of the points raised by the LPA.

LPA Written Statement of Case

Paragraph 2.1 of the LPA SoC states:

"Policy MTRA4 restricts development in the countryside. In terms of employment this is restricted to that which has an operational need for a countryside location, such as agriculture and forestry, and the reuse of existing buildings for employment uses".

This statement is misleading insofar as policy MTRA4 (3rd bullet) is also permissive of *"expansion or redevelopment of existing buildings to facilitate the expansion on-site of established businesses or to meet an operational need, provided development is proportionate to the nature and scale of the site, its setting and countryside location"*.

Paragraph 2.3 of the LPA SoC states:

"It is the Council's view that the proposal is not the expansion of the existing business on site but rather the introduction of a new business into the countryside".

However, as landowner and landlord of a thriving mixed-use development, the Appellant operates an established business. The proposals subject of this deemed planning application (DPA) deliver additional

rental income and therefore facilitate the expansion on site of an established business (Shedfield Equestrian Centre) in accordance with policy MTRA4.

With reference to tables 1-6 in the Appellant's SoC, Paragraph 2.4 of the LPA SoC notes that several alternative sites have been categorised as 'unsuitable' because they don't benefit from planning permission for a commercial use, and opines that the appeal site should also be considered 'unsuitable' because it doesn't have planning permission.

By identifying alternative sites as 'unsuitable' due to a lack of planning permission, the Appellant is simply seeking to illustrate that these alternative sites are no more suitable than the appeal site, and should not be considered ahead of the appeal site on merit.

The LPA SoC states that the Appellant 'dismisses' the northern part of the District as a different marketing area. In fact, the Appellant's SoC simply acknowledges that a considerable number of Strategic Housing & Employment Land Availability Assessment (SHELAA) sites are located in the north of the District, and may therefore fail to meet the needs of businesses in the south of the District. The consistent point is that these SHELAA sites do not benefit from planning permission and cannot therefore be considered to be deliverable alternatives.

The existing employment allocation in Bishops Waltham (LPP2 policy BW5 adopted 2017) does not benefit from planning permission and has little prospect of delivering suitable employment land in the near future. Planning permission has been granted for approximately 2500m² (GIA) of commercial floorspace at Waterloo¹. However, the Waterloo site makes no provision for small, affordable sites for the external storage of materials and machinery.

At paragraph 2.5 of the LPA SoC, the LPA dismisses the Appellant's reference to other planning applications for the reason that they are outside the District or 'have different material considerations'. However, these sites are considered relevant to the current proposals. The planning permission at Hazeley Enterprise Park is located within the South Downs National Park Authority (SDNPA), but was determined by officers at Winchester City Council, using policies in the Winchester District Local Plan Part 1 (LPP1) prior to adoption of the SDNPA Local Plan. At Hazeley Enterprise Park, the LPA supported new development in the countryside where it forms part of an existing commercial site.

Similarly, at Headbourne Worthy the LPA supported proposals for new economic development in the countryside where it forms part of an existing commercial site. Shedfield Equestrian Centre is an existing commercial site.

The Council now suggests that the containers are buildings, with reference to the following 3 tests set out in *Cardiff Rating Authority v Guest Keen Baldwin's Iron and Steel Co Ltd* [1949]:

- Size
- Permanence; and
- Physical attachment to the ground.

Cardiff Rating describes a 'building' as generally something that is constructed on site as opposed to being brought to site ready-made. In this instance, the containers have been brought to the site and therefore

¹ WCC ref.21/01005/FUL

should not be classified as a building. The Redcar Inspector² accepted the containers could be on the site for many years but ruled that, as a matter of fact and degree, they did not amount the erection of permanent structures. The containers are not attached to the ground via foundations or similar, in the normal understanding of the term. The containers at the appeal site are connected to basic utilities (electricity/water) but this would still not constitute a physical attachment to the ground, in the same way a touring caravan can be attached to utilities on a campsite without surrendering its transient characteristics. Utilities can be easily disconnected locally, and the containers could still be removed easily and quickly using a crane and a lorry. The appellant advises that there is now a simple WC on site. This discharges to a moveable above ground tank which is emptied into the Equestrian Centre system as required.

Indeed, the enforcement notice does not allege the erection of buildings, nor does it require the demolition of buildings – instead it requires the removal of the containers – which demonstrates that the LPA accept the temporary nature of the containers.

Similarly, the LPA has not advised the appellant of the required fee for the deemed planning application (despite PINS guidance stating that it should be set out in the enforcement notice) and did not challenge the fee paid by the Appellant which addressed a change of use of land only.

The Appellant would accept a condition requiring the removal of the containers in the event the use ceases.

Landscape: The Appellant notes that the LPA Landscape Team raises no objection to the proposals subject to a suitably worded condition. The Appellant accepts the suggested condition.

Drainage: The DPA site comprises a permeable surface. The surrounding area infiltrates to ground and/or drains to the nearby pond and network of watercourses. No changes to this are proposed. See above re: foul water. The site is used for the external storage of equipment and machinery. Welfare facilities are limited to tea making and somewhere to keep out of the rain, and a basic WC with a moveable above ground tank.

Highways: The Transport Statement (TS) appended to the Appellant's SoC was prepared in relation to a separate (ongoing) planning application at Shedfield Equestrian Centre. It demonstrates that appropriate visibility splays are deliverable and that the existing access is being used on a daily basis by HGVs without incident. The use of the appeal site for open storage of equipment will not generate frequent movements and therefore will not have an unacceptable adverse impact on the safe functioning of the highway. The proposal is not considered to be unacceptable from a highways point of view.

At paragraph 2.15 the LPA SoC points to the size of vehicles using the nearby aggregates recycling depot and reference the Highways Authority's request for swept path analysis at the junction with Botley Road to support current proposals for an extension to that existing depot. However, the lawfulness of the existing depot has been established and is not in question. The proposed extension will provide additional space for the storage of materials only and will generate no additional HGV movements. On this basis, the Highways Authority's request to inform their assessment of the suitability of the access is considered unreasonable.

² Paragraph 3.3 Appellant's Statement of Case (PINS ref. APP/V0728/W/23/3314720 MKM Building Supplies, Redcar TS10 5JU)

The access and visibility splays are within the ownership of the highways authority. There is no objection to the proposed condition #7 regarding visibility. The existing access has been used for many years without incident. The submitted Transport Note for the adjoining site demonstrates that there have been no reported accidents associated with the use of the junction onto the A334 by HGVs (>3.5t). The Council has provided no evidence to justify proposed condition #10 (no vehicles over 3.5t) and it is therefore unreasonable.

Trees: An addendum to the Appellant's submitted tree report has been prepared in response to the Council's Statement of Case. The amended report is attached to this letter.

Environmental Protection: with reference to the plan attached at Appendix C of the LPA SoC³, it is accepted that the 'flag' to the south is now a dwelling, having been issued a Certificate of Lawfulness in August 2023⁴. However, there is an aggregates recycling depot (Lockhams Recycling) between the DPA site and the dwelling. Consequently, the appeal site will have no adverse impact on the amenity of the nearest dwelling.

The flags to the north (within the Riding School complex) are at least 80m from the northern boundary of the DPA site – not 55m as alleged. The Appellant has confirmed that these are small flats within the various equestrian buildings. They are not private dwellings with sensitive private amenity requirements. The DPA site is also enclosed by a close boarded fence which also creates an effective acoustic barrier. In any event, B8 uses generate little in the way of noise and are generally acknowledged as being compatible with residential uses.

The cumulative impact of vehicle movements associated with the proposed use will not be materially greater than existing movements at Shedfield Equestrian Centre and hence will have no adverse impact on the amenity of other residential uses identified.

Importantly, the Environmental Health Officer raises no objection. The Appellant accepts the suggested condition.

Ecology: As the DPA is retrospective, there is no need to speculate over what habitat existed before the development took place. Nevertheless, in relation to a current appeal against a nearby enforcement notice (EN11) the Council's ecologist has concluded:

"No ecology report has been submitted to show how biodiversity can be retained and protected, however the site was previously agricultural land, and the ecological value is therefore considered low".

The Appellant has obtained an ecological assessment of adjoining land (November 2023) to support a separate planning application⁵. An HBIC⁶ data search recorded evidence of badgers within 1km of the site in 2019. However, during the survey no evidence of badgers using the surrounding area was recorded and are considered absent from the site.

The HBIC data search returned no records of great crested newts (GCN) within 1km of the site, and no records of European Protected Species licence (EPSL) granted within 1km. Nearby ponds are acknowledged as having some potential for GCN, however the surrounding terrestrial habitat present is

³ showing alleged residential uses in close proximity to the DPA site

⁴ WCC ref. 23/00902/LDC

⁵ Yet to be submitted

⁶ Hampshire Biodiversity Information Centre

considered to be unsuitable for GCN as it is either hardstanding, or the grassland is short sward and regularly grazed. GCN are therefore considered likely to be absent from the DPA site.

The HBIC data search returned 2 records for hazel dormouse within 1km of the site although there are no records of EPSL granted within 2km. The site is recorded as being unsuitable for hazel dormouse due to a lack of suitable habitat – there is a lack of understorey and nearby trees are not functionally linked to any other areas of suitable habitat. Hazel dormice are therefore considered to be absent from the proposed development area.

The HBIC data search returned one record of slow worm (*anguis fragilis*) in 2007 and one record of grass snake (*natrix helvetica*) in 2019 within one kilometre of the site. The immediate area is considered unsuitable to support reptiles as the grassland present is short sward and regularly grazed, or otherwise comprises hardstanding. Therefore, reptiles are considered likely to be absent.

On balance, it is considered that the ecological value of the DPA site is low and the proposals are unlikely to have an adverse impact on protected species or their habitat.

The suggested landscape condition is agreed and will enhance green infrastructure and deliver net gains in biodiversity.

Conditions: The Appellant accepts the suggested conditions 1-9 and 11.

Yours sincerely

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Richard Osborn

Associate Director

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encs 51486_EN11-Appendix G-Tree Report_addendum dated 25/9/2023 (addendum dated 3/1/2024)