

## **STATEMENT OF CASE**

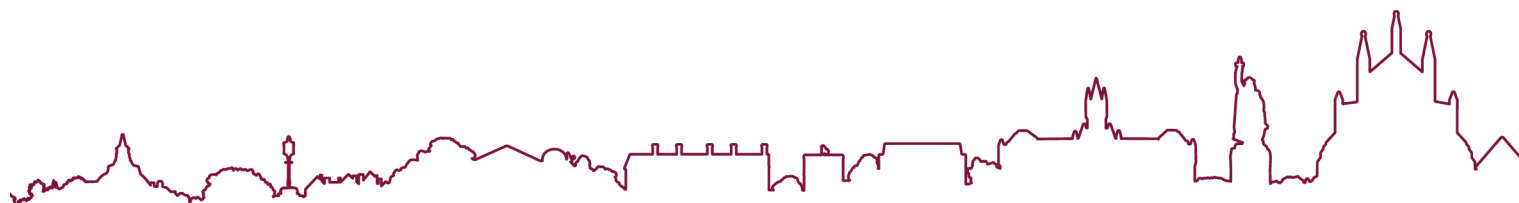
**SITE:** LAND AT SHEDFIELD EQUESTRIAN CENTRE, BOTLEY ROAD,  
SHEDFIELD, SO32 2HN (CS UTILITY CONTRACTORS)

**APPEALS BY:** MR CHRISTOPHER COLLINS

**AGAINST ENFORCEMENT NOTICE 10**

**DATE:** October 2023

**APPEAL REF:** APP/L1765/C/23/3328886



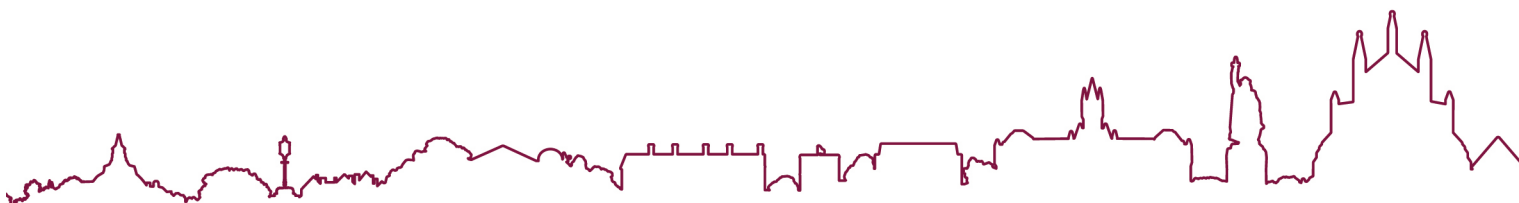
## 1.0 INTRODUCTION

- 1.1 Enforcement Notice 10 was issued on 01 August 2023; a copy of the notice is attached at Appendix A.
- 1.2 The Enforcement Officers report is attached at Appendix B and contains the history of the site and expediency considerations. Please note that the full site review mentioned in the Enforcement Officers report at paragraph 1.1 is not included with this statement. If required, this can be provided on request.
- 1.3 An appeal was lodged by the owner of the site on 04 September 2023 on Ground (a).
- 1.4 It should be noted that a significant proportion of surrounding uses within the larger Shedfield Equestrian site are unauthorised and are currently subject to formal enforcement action. The most recent enforcement notices – and ones most relevant to this site - were upheld at appeal (references: APP/L1765/C/22/3300697, APP/L1765/C/22/3300720, APP/L1765/C/22/3300722, APP/L1765/C/22/3309990). These sites are immediately adjacent the site in question. The appeal decision notices are attached within the enforcement report (Appendix B).
- 1.5 Separate to the above, the waste site located east of the site in question, had retrospective planning permission refused by Hampshire County Council on 20 July 2023 (reference: HCC/2022/0384). The decision notice and location plan are attached at Appendix C and D for information.

## 2.0 RESPONSE TO GROUND (A)

### PRINCIPLE

- 2.1 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.
- 2.2 The proposal under consideration includes hardstanding, storage and ancillary structures.
- 2.3 The appellant argues that the proposal would constitute an onsite expansion of an existing business that would be acceptable under MTRA4. 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. The business/use under consideration is not related to the agricultural uses that are existing and has not resulted in the reuse or replacement of existing buildings for business uses. As such it is not considered that the proposal would meet the requirements of this element of the policy.
- 2.4 It is noted that a table of other sites that are available has been submitted for consideration and that many sites have been discounted due to the lack of planning permission. As the current site does not have planning permission it is considered that this site should also be included as not suitable on the basis of the appellants needs. It is also noted that at paragraph 3.47 the areas within the northern area of the district have not been taken into account as they are 'in a different marketing area.' It is also



noted that the employment allocations and existing areas that have outline planning permission in Bishops Waltham and Waterlooville have not been considered.

2.5 At paragraphs 3.40 and 3.42 the appellant has raised other applications that are outside of the district or are in areas that have different material considerations. As such it is not considered that these can be given much weight in this case.

2.6 At paragraph 3.55 the appellant lists the advantages of the appeal site, these being:

- A small scale operation
- The site being previously developed land
- The site being in close proximity to other businesses
- No requirement for large buildings.
- No views of the site

2.7 To address each in turn:

A small scale operation – this is noted however the cumulative impact of the various uses on site must be taken into consideration. As has been noted by the appellant there are a range of authorised and unauthorised uses on the site.

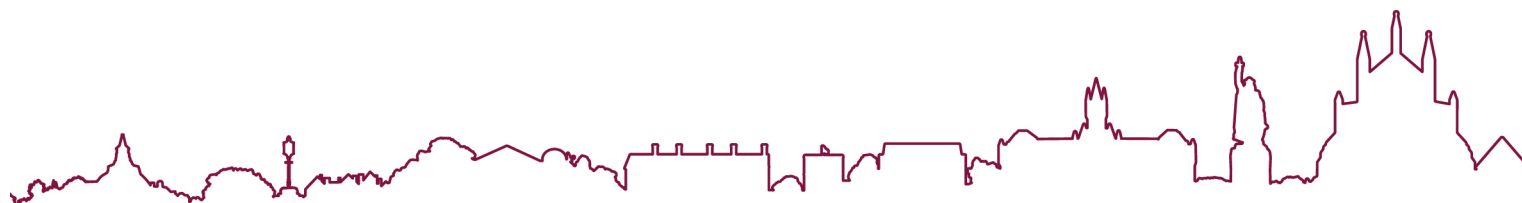
Previously Developed Land (PDL) – The NPPF describes PDL as:

Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

The authorised use of the land is agricultural. The hardstanding that is currently in place was put in to allow for the business use, now under consideration, to take place. As such it is not considered that this area is previously developed land as there has been no authorised change from the agricultural use. In addition, this area of land is not considered to be within the curtilage of developed land (Shedfield Equestrian Centre) as claimed by the appellant; the only correlation between the two areas of land is that they are under the same ownership and an access is shared.

In close proximity to other businesses – While this is accurate, not all the businesses have authorised uses. The majority of the authorised uses on the site are located to the front of Shedfield Equestrian Centre, nearest the main road, or within the equestrian area to the north of the site by the sand school. It should also be noted that the majority of other authorised uses are retail and equestrian based. The other businesses that surround the site are subject to formal enforcement action as described at paragraph 1.4.

No requirement for large buildings – this is based on this business and any additional buildings would likely be subject to further planning applications.



No views of the site – due to the site’s location within the site behind a number of buildings it is not considered that the appeal site would be visible from public areas.

## LANDSCAPE

2.8 The appellant goes on to say, at paragraph 3.60 that there would be no landscape impact.

2.9 The following consultation response was received from Winchester City Council’s (WCC) Landscape Team in relation to this appeal:

No objection, subject to condition.

The site is a small-scale operation with no permanent buildings as such, only temporary containers, and other structures. These are not considered to be incongruous features in this particular part of the district. Small holdings, nurseries and solar farms are common in this landscape character area.

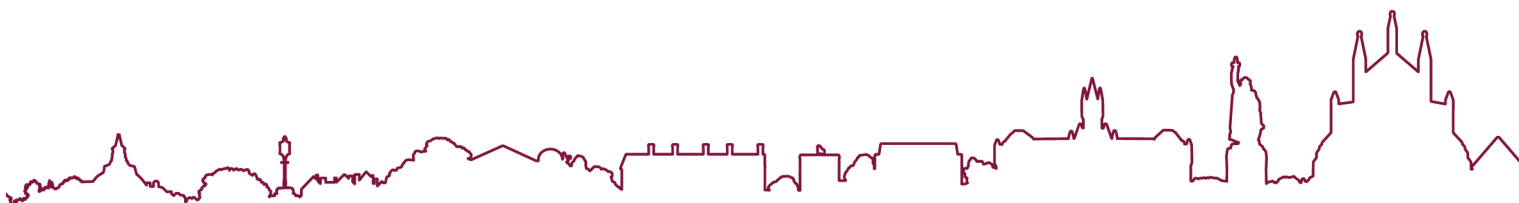
This is not a landscape sensitive site with no landscape designation on or nearby. The site is adjacent to a solar array. Visual intrusion is negligible as there are no residential receptors or public rights of way nearby and the site is hidden from the local highway network. No key landscape features appear to have been removed although there is some evidence that historically there may have been some tree loss at the northern edge of the adjacent woodland although this is not a SINC or part of the ancient woodland network.

The site is located within the Whiteley Woodlands landscape character area (LCA) 23. ‘Poor quality agricultural land which has proved unattractive for cultivation and development’. The grassland at the site has been subject to agricultural improvement and is not a species rich grassland. The Council’s landscape assessment acknowledges that most views in this area are generally short, due to the undulating topography, 20th Century built form, and scattered woodland. ‘This is an enclosed landscape with only short views as woodland or intact hedge bound views’ it says. Accordingly, it is acknowledged that the development will have no material adverse impact on the district’s sensitive landscapes or cause any significant harm to the character and appearance of the area.

In terms of tranquillity, it is acknowledged that the B8 (storage) use is not a noisy land use and the effect on rural tranquillity is likely to be modest. No external lighting is proposed.

If the site was better planned and designed utilising native tree and hedge planting and subtle earthbundling to enhance the site then it might be more acceptable, in landscape terms.

Suggested condition: ‘Details for the landscaping of the site shall be submitted to and approved in writing by the local planning authority. Reason: to secure properly planned development and to improve the appearance of the site in the interests of visual amenity. Policy Link: LPP1 policy CP20 supports new development which recognises, protects and enhances the district’s distinctive landscape.



2.10 Paragraph 174 of the NPPF states that planning decisions 'should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes' and 'recognising the intrinsic character and beauty of the countryside'. The Council's Landscape Team were consulted (as abovementioned) regarding this development and their comments have been taken into account in relation to the planning assessment of the development. However, even though there is no demonstrable harm in terms of visual intrusion, it is considered that the urbanising of the rural area with an unlawful storage use which has no justification and is contrary to policy MTRA4 will have an intrinsic harm to the countryside character.

## **DRAINAGE**

2.11 At paragraph 3.63 the appellant states that surface water would use the existing watercourse. It is the Council's view that insufficient information has been submitted in this regard. There is no information submitted in regard to the capacity of the watercourse or whether the appropriate licences and permissions have been achieved to discharge into the watercourse from the appeal site.

2.12 There is also no details on foul water removal. It is noted that the appellant has emphasised that there is no permanent structure on the site and therefore the details of welfare facilities for the site are lacking. If the temporary structures, as described by the appellant, contain welfare facilities details of where the foul water would be removed to should form part of the appeal. If welfare facilities are included within the temporary structures and are connected to a PTP or a line has been introduced to attach to the nearest foul sewer, the council would question whether these buildings would continue to be considered temporary structures, given the permanent fixing to the ground. If no foul waste removal is proposed then further details are required, as the appeal is retrospective it is not considered appropriate for details to be secured via condition.

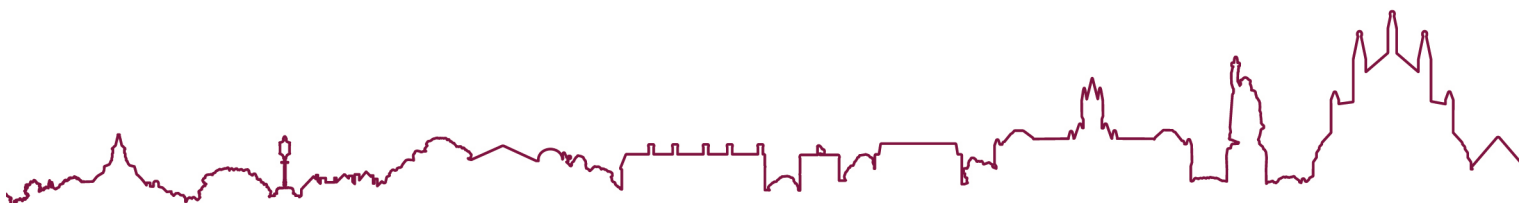
## **HIGHWAYS**

2.13 Paragraph 3.65 identifies the travel assessment that has been included with the appellant's statement of case. The transport assessment is not considered sufficient. The report is specifically in regard to the nearby site at Lockhams Recycling. As such different vehicle movements and sizes of vehicles could be used. As such this is not sufficient to support the appeal.

2.14 The following response was received from Hampshire County Council as the Highway Authority in relation to this appeal:

The Transport Note provided in support of the appeal does not provide information on size of the site access or tracking for this access. The TN claims that these are not required as the site is already in operation. However, there The TN provides visibility splay drawings and states that land required for the vis splays is within land under control of the applicant or within the extent of the public highway.

The highway authority has the following comments. The applicant should clearly identify on a drawing those areas of land which are in their ownership, and which are required to achieve necessary visibility splays. They should highlight any obstruction within the visibility splays, such as the private signs which are observable on the photo provided



within the TN. Any signs currently within the visibility splay would need to be removed and the visibility splays kept clear in perpetuity. To be able to assess the safety of this application the highway authority do require tracking drawings showing a vehicle entering the site whilst another waits to exit. As the TN has referenced use of the site by HGV this should be the size of vehicle tracking. The TN references two accesses but only states that the application site access is that shown in the photo within the TN. It appears that this refers to the main site access, that described as being to the southeast. The applicant should clarify which access is being assessed, and should this application be permitted, it should be conditioned so that this is the only access which can be used for this use/part of the site.

2.15 It should be noted that concerns were raised in relation to the size of vehicles using the Lockhams site as is highlighted in the transport assessment and that the Highways Authority requested additional information regarding swept path analysis to fully assess the impact of larger vehicles using the access on to the Botley Road. It is also noted that these have not been submitted. As such it is the Council's view that these is insufficient information to properly assess the impacts of additional large vehicles on the highways network and users.

## TREES

2.16 The site is adjacent to a Tree Preservation Order (TPO) area. This was put in place to protect the trees that once grew on site but have since been removed. Though the trees have been removed the TPO remains in place and is a material consideration. Paragraph 3.58 confirms that the trees were removed.

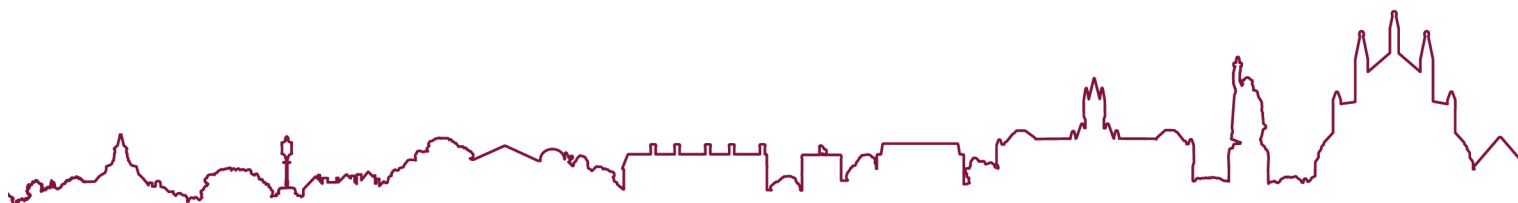
2.17 The following consultation response was received from Winchester City Council's (WCC) Tree Team in relation to this appeal:

The appellant's written statement of case explains that the site is used primarily for storage of materials and equipment.

The site is now comprised of hardstanding (tarmac or scalplings surfacing). Prior to this (as shown in aerial photography from 2017) the site was agricultural land.

Section 3.70 of their statement of case say the following:

"3.70 There are no trees within the DPA site, or close to the boundary."







Date: 22/06/2023  
Scale: 1:2,500  
Author:  
Notes:

Legend

Aerial Photograph 2017



Latest Aerial Photograph



Lowland Mixed Deciduous Woodland Priority Habitat is located immediately adjacent to the south of the site.

No tree report has been submitted to show how they can be retained, protected and enhanced. The installation of hardstanding and the storage of materials and equipment directly adjacent to the woodland could have negatively impacted the adjacent trees causing the decline (see close up of latest aerial photograph below compares to 2017 aerial image) in their health through compaction of tree roots and run-off into the woodland.

Latest Aerial photograph



2017 Aerial Image







Leaving a buffer area in line with the RPA or greater to protect the woodland edge is in line with the Councils Tree Policy, Planning Policy, National Guidance and BS5998 Trees in relation to design, demolition and construction.

Due to a lack of information, loss of trees, compaction of tree roots the development is considered to be contrary to the NPPF 2021 and LPP1 Policy CP15 and CP16.

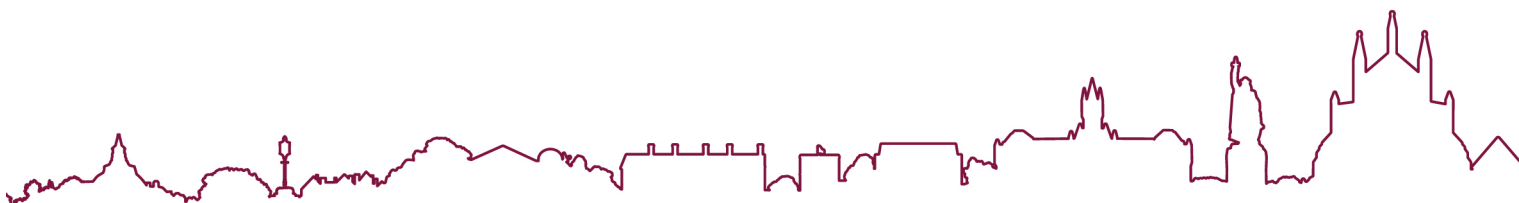
The Forestry Commission should also be consulted as a result due to the loss of woodland edge trees, there may be a case for a replacement planting notice to be issued.

## **ENVIRONMENTAL PROTECTION**

2.18 The appellant goes on to say, at paragraph 3.71 that the nearest dwellings are a significant distance away, over 475m. The Council contest this as there are dwellings in the site adjacent to the access track approximately 400m of the site and tourist accommodation approximately 330m from the application site (please see Appendix E for a map showing locations of known residential units). Though it is noted that these are a considerable distance away it is considered that the access track is located immediately adjacent to these residential uses and therefore the vehicle movements would result in noise to these residential uses. It is also noted that the appellant states that Lockhams recycling makes more noise and therefore a noise report is not required at 3.72.

2.19 The following response was received from WCC's Environmental protection Team in response to this appeal:

[No objection, subject to conditions.](#)



Thank you for your consultation. I have no adverse comments regarding the proposal. Should permission be granted we would recommend the following conditions;

No machinery shall be operated, no process shall be carried out and no deliveries taken at or dispatched from the site except between the hours of 0800 and 1800 Monday to Friday and 0800 and 1300 on Saturdays and at no time on Sundays and recognised public holidays.

Reason: To protect the amenities of the occupiers of nearby properties.

No materials shall be burnt on site, unless agreed in writing by the Local Planning Authority.

Reason: To protect the amenity of occupiers of nearby premises and in the interest of public health.

## ECOLOGY

2.20 WCC's Ecology Team were consulted, and they provided the following response in relation to this appeal:

The appellant's written statement of case explains that the site is used primarily for storage of materials and equipment. It states that there is no external lighting. The site is now comprised of hardstanding (tarmac or scalplings surfacing). Prior to this (as shown in aerial photography from 2017) the site was agricultural land. Lowland Mixed Deciduous Woodland Priority Habitat is located immediately adjacent to the south of the site.

There are six ponds located within 500m of the site, the closest located 45m east. The habitat suitability of these ponds for great crested newts has not been assessed but it should be noted that the site is located within the red risk zone.

No ecology report has been submitted to show how biodiversity can be retained, protected, and enhanced. The installation of hardstanding and the storage of materials and equipment directly adjacent to the woodland could have negatively impacted this priority habitat. For example, hardstanding and storage may be causing compaction of tree roots and hardstanding may be causing run-off into the woodland. This could have also indirectly impacted protected species.

It is considered best practice to leave a buffer area (usually in line with the root protection area) to protect the woodland edge.

Due to a lack of information the development is considered to be contrary to the NPPF 2021 and LPP1 Policy CP16.

## 3.0 CONCLUSION

3.1 There is a distinct lack of information submitted in support of this appeal; the appellant is missing important details such as biodiversity/tree/drainage reports, highways reports and drawings, as well as a sufficient justification for this use within a countryside location.

3.2 For the reasons given above and in the attached appendices, the Inspector is respectfully requested to dismiss this appeal and uphold the enforcement notice in its entirety.

