

## MEMO

**FROM:** Madelaine Clavey  
**OUR REF:** 21/00168/COU  
**TO:** Head of Legal Services  
**DATE:** June 2023  
**RE:** Proposed enforcement action at Shedfield Equestrian Centre, Botley Road, Shedfield, Hampshire: Unauthorised material change of use to B8 (storage) (CS Utility Contractors), together with operational development which facilitates the change of use of the Land; and unauthorised operational development.

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 CS Utility Contractors; this company occupies the land shown in the approximate location as shown outlined in red on attached plan (Appendix B). This site was not included on the original site review as noted above as it was not present at the time.
- 1.3 This company uses the land for storage of vehicles and equipment in connection with their business. The land appears to have been raised to match the height of the adjacent land, and hardstanding laid in areas.
- 1.4 Photos of the land are attached at Appendix C.

### 2.0 BACKGROUND

#### 2.1 HISTORY

No relevant history.

- 2.2 There is no planning permission for the use in question or any operational development.
- 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 The operational development was undertaken prior to the current company moving onto the site and is therefore not considered to be part and parcel of the material change of use. It was however, completed well within the last 4 years and is therefore not immune.
- 2.5 The original company that occupied the land was a pallet restoration/provider company (Pallet Brothers Ltd) and they started using the land sometime in 2022 (photos of the land, taken by the enforcement officer in 2021 show the land unoccupied. Further photos in early 2022 taken by the same officer show the pallet company in situ). They later vacated the land and CS Utility moved onto the site.

**AERIAL IMAGERY**

- 2.6 Aerial imagery (WCC GIS Map) from 2013 shows this area free from development and empty; this is also true from 2017. The latest aerial imagery shows a difference in land levels on the land.
- 2.7 The current use of this land started in early 2022 (Pallet brothers Ltd) as witnessed by the enforcement officer; and prior to this it was not apparent that there was a change of use of land from agriculture. Therefore, the current use cannot be considered immune under the 10 year rule as the period for immunity has not been exceeded.
- 2.8 The ground level has been raised across the entire area. Aerial imagery shows the difference in levels from 2017 (when it appears to be uniform, flat, and grassed), to the latest, that shows a difference in height. The land raising appears to have occurred sometime in 2021. Photos taken by the enforcement officer on 12 May 2021 show the land 'under construction', with diggers present and working. Photos attached at Appendix D. The land that has been raised extends beyond the planning unit used by CS utility Contractors. A separate enforcement notice will need to be issued tackling the land raising as a whole. This red line for the land raising is attached at Appendix E.



(WCC latest)



(WCC 2017)



(WCC 2013)

## APPEAL DECISIONS

- 2.8 Recent appeal decisions APP/L1765/C/22/3300720, APP/L1765/C/22/3300722, APP/L1765/C/22/3309990, and APP//L1765/C/22/3300697, all relating to Shedfield Equestrian Centre and the most recent enforcement notices served there, were upheld by the Inspectorate. The appeal decisions (amalgamated into one document) are attached at Appendix D.
- 2.9 The Inspector, whilst considering an appeal under Ground A, from appeal reference APP/L1765/C/22/3300697 (MCOU to B2 general industrial from countryside), stated that:

“...the development results in unacceptable harm to the character and appearance of the area and with potential environmental risks. As such, it is not in a

sustainable location. It conflicts with the requirements of CS Policies MTRA3 and MTRA4 and with the Development Plan as a whole.”

- 2.10 This appeal decision is particularly relevant as it relates to the main site, which includes this smaller parcel of land, for a similar use. The appellant provided no justification for the change of use, and the enforcement notices, which are near identical to this one, were upheld.
- 2.11 It was established in these appeals that the requirements were not excessive. However, the use of the words “miscellaneous items” was imprecise and should therefore not be used in further notices.
- 2.12 An amendment to the time for compliance was made by the Inspector. 8 months was considered to be more suitable and some of the notices were amended in this regard. A period of 8 months will therefore be provided for this notice.

### **3.0 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 operational development is not considered immune under the 4 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.

### **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. Therefore an extended period for compliance will be provided. The tenants will 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 (x2) and plans 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

CS UTILITY CONTRACTORS LIMITED (Company number 087656041) Langley Court, Pyle Street, Newport, Isle Of Wight, United Kingdom, PO30 1LA.

Copies of the enforcement notices will be sent to the registered address of the company known to occupy the land.

5.3 A copy of the notices 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), and;

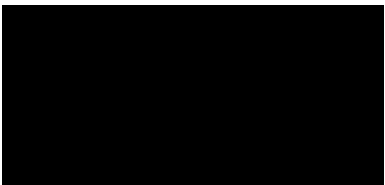
£468 (£234 x 2 (double the application fee)) (Other operations).

**6.0 ENCLOSED:**

- *Draft enforcement notices*
- *Draft enforcement notice plans*
- *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 notices.



DATE: 27.06.2023.....

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