

DELEGATED OFFICER REPORT

Application Ref: F/24/96940

Site Address: Land adjacent to 2 Bridge Cottages, Shamblehurst Lane North, Botley, Southampton, SO32 2BY

Case Officer: David Huckfield

Description: Retrospective: Change of use of land from field / woodland to storage area for vehicles and plant (Use Class B8) with new enlarged entrance to highway and gates and fencing.

Relevant Site Constraints	Yes ☒	No ☐
• Within Designated Countryside • Within Designated Settlement Gap • Partially Within Flood Zones 2 and 3		

Relevant Planning History?	Yes ☐	No ☒
LDC/18/83362 - Lawful Development Certificate for existing use of land for the storage of vehicles, plant and machinery – CERTIFICATE ISSUED (30 July 2018)		

Publicity:	Letters ☒	Site Notice ☒	Newspaper ☐
4 representations in objection to the proposals have been received with the following matters being raised: • Highway safety concerns in relation to the unsuitability of Shamblehurst Lane North for larger vehicles. • Loss of habitat for wildlife, destruction of woodland and environmental damage arising from the development. • Amenity impacts including noise, disturbance, dust and smells arising from vehicular movements and activities on site which occur on a daily basis from early morning to late evening. • The site is unsightly and is not maintained. • The site is visually intrusive from the Lane and overbearing to the two domestic properties adjacent to the site. • Potential for land contamination from the nature of the business and infilling of the site. • Overdevelopment of the site. The following matters were also raised which are not considered to be material planning considerations: • The site being subject to probate and whether private permission to use the land has been withdrawn or has been given to sublet part of the land. • Devaluation of property.			

Consultation Responses (Summarised)	
Botley Parish Council	Object. Whilst members noted part of the area is already used for Class B8 and this is a retrospective application. However, the site is within countryside gap and therefore as a matter of principle, members felt the erosion of the countryside gap should not be allowed.
EBC Ecologist	This site is within amber and green impact risk zones for great crested newts. There is an area of lowland mixed deciduous woodland priority habitat which extends into the site along the boundary with Shamblehurst Lane. There are records of bats and woodland grasshoppers nearby. The woodland has potential habitat for breeding birds, bats, badgers and possibly dormice. There is a record of a dormouse license 1200m SE from this site with hedgerow connectivity.

	Using the time slider on Google Earth it is clear that the change of use from field/woodland has been occurring since at least 2015, with expansion of the cleared area in 2016 and 2020. An ecological impact assessment (EcIA) is required to determine the extent of the existing clearance and the ecological value of the habitat remaining. Biodiversity net gain is required in line with national and local policy. Opportunities for biodiversity enhancements must be recommended in the PEA report. Surface water drainage and surface water pollution mitigation information is also required.
Tree Officer	There is a group of oak trees between the two sets of gates. Enforcement photographs (dated 2023) show significant volumes of soil stored in the root protection areas, which appears to be the result of the installation of the large gates/access. This soil could have a significant impact on the health of the trees and may, ultimately, result in tree failure, with and damage being the legal responsibility of the tree owner. We request that the applicant submits an arboricultural method statement, detailing work to rectify this situation. Therefore, as it stands, we raise a holding objection.
HCC Highways	In regard to application F/24/96940, having reviewed the information contained in the application pack, whilst there would be no objection in principle to the proposals, additional information is requested prior to a formal no objection being recommended. The vehicle access is an improvement on the existing access, being widened and set back from the edge of the highway, and this has both increased visibility and means that vehicles can stop off of the highway whilst access gates are opened. There is however concern that whilst the set back of gates is suitable to house a waiting car, it is not clear whether it is of sufficient size for the larger vehicles which access the site (i.e. HGV's currently stored on site) without the vehicle at least partially obstructing the highway during the gate opening process. As such, evidence is requested to show this is not the case, which given this is a retrospective application, can be via simple photos showing the largest vehicle in position, with gates shut, and no highway overhang. Additionally, applicants should be aware that works undertaken which about the highway should be undertaken with the appropriate licences in place, to ensure they are constructed appropriately and to standards. These should be applied for accordingly.
Environment Agency	No objection subject to the imposition of the following condition: <i>The development hereby permitted must not be commenced until such time as a scheme to ensure that there is no raising of ground levels within areas shown as Flood Zone 3 on the Environment Agency's Flood Map for Planning (Rivers & Sea), has been submitted to, and approved in writing by, the local planning authority.</i> <i>The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme's timing/phasing arrangements, or within any other period as may subsequently be agreed, in writing, by the local planning authority.</i>

	<i>Reasons: To ensure that there are no detrimental impacts to flood storage or flood flow routes.</i> Advice to the applicant and the LPA was also provided in respect of flood risk, signing up for flood warnings, controlled waters, and waste both on-site and to be taken off-site.
Southern Water	The Council's technical staff and the relevant authority for land drainage should comment on the adequacy of the proposals to discharge surface water to the local watercourse. It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site. For further advice, please contact Southern Water.
Environmental Health	<u>Initial comments:</u> The proposal is for B8 Storage or distribution (class includes open air storage), no hours of use are included, or details of the activities proposed, e.g. plant and equipment to be utilised on site, site layout, vehicle numbers, proposed hours of use or intensity of the use. Records show that a waste carriers' licence has been granted to the site by the Environment Agency. Residential dwellings are located adjacent to the land in question, and are likely to be impacted by noise, dust, light and etc arising from the site and operations thereon. No information is included with the application to show how noise, dust and other impacts have been assessed, and how they will be effectively managed so as to avoid significant adverse impacts, and otherwise reduce adverse impacts to a minimum. Given the proximity of sensitive receptors, and lack of information to show how impacts will be avoided and otherwise managed, we are concerned that there is a likelihood of significant impacts on the existing residential use. On this basis we do not support the application. <u>Further comment:</u> We have been made aware of allegations of waste being deposited in the land, the nature of the materials is such that we are concerned that this may pose a risk of harm to health or pollution of the environment. We would recommend therefore that the applicant supply information regarding the management of material on site, including wastes, and a report of the land condition, including assessment of contaminants, identifying any areas where waste has been stored, where imported materials have been used on site to provide hard standing, or to raise ground levels, and if materials have been buried on site.
Southern Gas Networks	There are high pressure pipelines in the vicinity of the proposed work area. SGN formally object to this planning application until such time as a detailed consultation has taken place. For your safety, it is essential that no work or crossing of this high pressure pipeline is carried out until a detailed consultation has taken place. This response is for initial/scoping out work only. This response does not give permission to undertake any work. When consultation has taken place, your planning has been approved and works on site are due to

	start, another request for information and updated maps must be made via our on-line system as a 'planned works' enquiry.
Scottish and Southern Electricity Networks	Information was provided in relation to SSEN Distribution's Asset Network Plans, along with guidance on interpreting these details and how further information can be obtained in relation to the network in this area and any required works.

Policy:

Legislative Background:

Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise.

The Development Plan:

The Development Plan comprises of the Policies of the adopted Eastleigh Borough Local Plan 2016-2036 with the following policies being of relevance to the application: S1 (Delivering Sustainable Development), S5 (Development within the countryside), S6 (Protection of settlement gaps), DM1 (General criteria for new development), Policy DM3 (Adaptation to climate change), Policy DM5 (Managing flood risk), Policy DM6 (Sustainable surface water management and watercourse management), DM8 (Pollution), DM11 (Nature conservation), DM13 (General development criteria – transport), DM14 (Parking).

National Planning Policy and Guidance:

The latest iteration of the National Planning Policy Framework (the NPPF or Framework) was published in December 2024 and, as set out within paragraph 231, the policies contained within it are material considerations which should be taken into account in dealing with applications from the day of its publication. The Planning Practice Guidance provides additional guidance in support of the policies within the Framework and is also a material consideration in the determination of the application.

Site Visit	Yes ☒	No ☐
A site visit was undertaken by the Case Officer to assess the proposals in context.		

Assessment:

Principle of development:

The application site lies outside of the urban edge and falls within an area which is designated as countryside and settlement gap within the Council's adopted Local Plan. The gap, in this location, serves to separate the settlements of Hedge End, Horton Heath and Boorley Green. Policy S6 of the Local Plan seeks to prevent development which would undermine the physical extent and/or visual separation of settlements or have an urbanising effect on the countryside, with Policy S5 seeking to prevent inappropriate development within the countryside in order to maintain its rural character and limit urbanisation, whilst facilitating and controlling particular specified types of development for which a countryside location is genuinely and justifiably required.

The proposals, which are for the expansion of an existing B8 use into the countryside, are not a form of development which is permitted by Policy S5, and the scheme would have an urbanising effect upon both the site itself as well as its surroundings. The proposals would also diminish the amount of open and undeveloped land in the settlement gap. As such, the proposals are unacceptable in principle and there would, therefore, have to be

material considerations which would outweigh the conflict with the development plan to justify the granting of planning approval. For the reasons as set out below, this is not considered to be the case in this instance.

Layout, design and impact upon the character of the area:

In addition to the requirements of Policies S5 and S6 which are set out above, Policy DM1 of the Local Plan is also of relevance to the assessment of the application in respect of its layout, design and impact upon the character of the area. This policy states that all new development should not have an unacceptable impact on, and where possible should enhance, the character and appearance of the area. In this respect it requires that development takes full and proper account of the context of the site including the character, appearance and land uses of the locality or neighbourhood, and that it is compatible with adjoining uses and well-integrated with these in terms of mass, scale, materials, layout, density, design and siting, both in itself and in relation to adjoining buildings, spaces and views.

The application site lies along the western side of Shamblehurst Lane North, a broadly north-south route which links the built up area of Hedge End to the south with the B3354 (Winchester Road) and the surrounding countryside to the north. The Lane is unlit, narrow in width and bound by trees and hedging, beyond which are predominantly green fields and areas of woodland. Whilst there is evidence of built form and development along parts of the Lane, which includes for commercial purposes, this is relatively sporadic and intermittent in nature with the overriding character and feel of the Lane and its surroundings being very much one of a semi-rural area of countryside.

The application site currently benefits from a certificate of lawfulness for the use of part of the land for the storage of vehicles, plant and machinery within use class B8 (planning reference LDC/18/83362). The current proposals seek to notably expand this use westwards through the enlargement of the extent of the site, with the works also incorporating an enlarged entrance to the highway (Shamblehurst Lane North) with associated gates and fencing. These works have already been undertaken and as such the application is retrospective.

Whilst acknowledging the certificate granted and the associated lawful activities that took place on part of site, the proposals represent a significant intensification of use and, notably, a considerable expansion of a relatively modest sized commercial site into what was formerly principally scrubland and woodland, akin to the ground which lies beyond, and which makes a significant contribution to the overriding character of the area. This land, which has been cleared in its entirety, is now by contrast overwhelmingly urban in appearance with it having been laid to hardstanding, enclosed by metal fencing, and housing a range of commercial vehicles, storage containers, scaffolding and other equipment. These works are not only evident from within the site itself and from within the wooded area that surrounds it, but also from Shamblehurst Lane North where the extent of the site and the operations undertaken therewithin can be seen to varying degrees when moving towards, passed and beyond the site, and the enlarged and somewhat industrial style entrance is eminently and intrusively visually apparent.

The combination of these factors is a development which represents an unacceptable and inappropriate physical and visual expansion into, and erosion of, an area of designated countryside and settlement gap and its undue and adverse urbanisation. For the reasons given therefore, the development is considered to be contrary to Policies S5, S6 and DM1 of the Eastleigh Borough Local Plan 2016-2036 and Paragraphs 135 and 187 of the National Planning Policy Framework, which collectively require that development takes full and proper account of the context of the site, and that it respects the character of the countryside and avoids both its undue urbanisation as well as the undermining of its function of protecting the separate identity of settlements.

Residential amenity:

Policy DM1 of the Local Plan requires that new development should not have an unacceptable impact on, and where possible should enhance, residential amenities of both new and existing residents, whilst Policy DM8 states that development will not be permitted if it is likely to cause a loss of amenity through, amongst other things, air pollution and noise or vibration. Paragraph 135 of the NPPF states that planning decisions should ensure that development provides a high standard of amenity for existing and future users, whilst Paragraph 198 states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

The site lies adjacent to two semi-detached residential properties, Nos. 1 and 2 Bridge Cottages, the latter of which is understood to be under the ownership / control of the applicant. As noted above, the proposals would result in an expansion of the existing lawful operations at the site which are for the storage of vehicles and plant which, presently, are in association with a tarmacking business. Whilst acknowledging that these existing and unrestricted operations would have impacted upon the amenity of the occupiers of these properties to a degree, the extent of the expansion of the site is relatively significant and, as such, the potential for an increase in the levels of impact upon these occupiers is considered to be notable, particularly by way of noise and disturbance but also through dust generation and other impacts associated with the operations undertaken on site.

As noted within the comments of the Council's Environmental Health Officer, there are no hours of operation proposed within the submission and very limited details in respect of the exact nature, frequency and intensity of use of the particular operations that are carried out on site have been formally provided. There is, in addition, no information included to demonstrate that matters such as noise and dust generation and other impacts which could arise from a development of this nature, have been appropriately assessed or quantified, and how they would be effectively managed so as to avoid significant adverse harm arising to neighbouring residents, and otherwise reduce adverse effects to a minimum which are key requirements of Paragraphs 135 and 198 of the NPPF.

Taking account of the proximity of the development to sensitive receptors in the form of the residential dwellings at Nos. 1 and 2 Bridge Cottages, therefore, as well as the nature of the use for which permission is sought and the potential associated effects upon the amenity of the occupiers arising from this, as well as the lack of information provided to show how such impacts could be avoided or otherwise mitigated/managed, it is considered that the development is in conflict with the requirements of Policies DM1 and DM8 of the adopted Local Plan, as well as Paragraphs 135 and 198 of the NPPF.

Highway matters:

Policy DM13 of the Local Plan requires that all new development has safe and convenient access to the highway network and makes provision for access to, and by, other transport modes including public transport and cycle and pedestrian routes as appropriate. Access arrangements to the highway network must meet national and local guidance and standards, not cause or increase danger to road users or impact detrimentally on highway safety, and be provided without unacceptable environmental impact. Saved Policy DM14 requires that an appropriate level of car parking be provided to serve the development proposed. These policy provisions are considered to be consistent with the requirements of Section 9 of the NPPF.

The expansion of the extent of the site that has been undertaken has the potential to increase the level of vehicular movements on the highway network through an associated intensification of use of the existing business operations. The Highway Authority have,

however, not raised any issues in this particular regard nor in relation to the type and nature of vehicles that would be accessing the site and the suitability of the surrounding highway network for this purpose. Whilst the concerns that have been raised in relation to these matters within the third party representations received are therefore noted and acknowledged, in the absence of an objection from the Highway Authority it is not considered that the application could, in this case, reasonably be refused on these grounds.

With regards to on-site parking, given the extent of the enlargement of the site area that has taken place, there is considered to be adequate room for the parking and storage of vehicles associated with the business, as well as ample space for turning such as to allow these vehicles to access and egress the site in a forward gear. In terms of the access point itself which, along with the gates and adjoining fencing, form part of the current application, the Highway Authority have noted that, in highway terms, this represents an improvement on the previous arrangements, with it being wider, having improved visibility, and a degree of set back from the edge of the highway.

In the latter regard, the highway authority had sought clarity on whether the set back is sufficient to ensure that the larger vehicles which access the site can be accommodated without overhanging onto the highway when awaiting the gates to be opened. Whilst no further technical detail has been submitted in this respect, it was observed during a site visit that this was possible with one of the larger vehicles that are in use at the site.

In highway terms, therefore, there is deemed to be no conflict with the requirements of Policies DM13 or DM14 of the adopted Local Plan.

Ecology and drainage:

Policy DM11 of the Local Plan states that the Council will determine planning applications to protect, conserve and enhance all international, national and local nature conservation designations and networks of natural habitats and features, and facilitate their adaptation to climate change wherever possible. It also seeks a net gain for biodiversity on development sites and sets out that development will not be permitted where it is likely to have a direct or indirect adverse effect on protected or priority species unless there are no alternative solutions, the adverse effects are unavoidable, measures are taken to mitigate or, as a last resort, compensate for the adverse effects, there is overall biodiversity net gain, and the benefits of the development clearly outweigh the adverse effects. Policy DM6 requires new development to incorporate appropriate surface water drainage provisions which, amongst other things, maintain water quality and ensure that discharge rates are reduced as far as possible and that on greenfield sites these should at least mirror greenfield rates before development.

The Council's Ecologist has, within their consultation response on the application, advised that there are features present both on and off-site which have the potential to be, or that have been, affected by the works that have been undertaken as part of the development scheme. This includes upon protected species, as well as their respective habitats. Such works have also had the potential to have resulted in a net loss for biodiversity, particularly from the field/woodland clearance that has evidently occurred as part of the site's expansion. Natural England's Standing Advice for protected species stipulates that a developer should submit enough information to enable the Local Planning Authority (LPA) to fully consider the effect on protected species and their habitats and that surveys can be requested where there is suitable habitat on site. As noted above, both Policy DM11 of the Local Plan and the NPPF also require a net gain for biodiversity to be achieved as part of development proposals.

An ecological impact assessment (EcIA) is considered to be required to determine the extent of the existing clearance and the ecological value of the habitat remaining. Details of biodiversity enhancements are also required, and, in addition, the Council's Ecologist

has also highlighted that surface water drainage information should be provided to demonstrate that run-off water from the site will not cause unacceptable levels of pollution into the watercourse into which the development proposes to discharge which, in itself, has the potential to adversely impact upon biodiversity.

No ecological or drainage information has, however, been provided and as such, there is insufficient detail available to allow the LPA to fully consider the ecological effects of the proposals. As this is deemed to not be a matter that could be conditioned in the event that permission was to be granted, this will therefore form an additional reason for the refusal of planning permission with the proposals being in conflict with the requirements of Policies DM6 and DM11 of the Local Plan and Paragraphs 182 and 187 of the NPPF.

Trees:

Policy DM1 (1.d.) of the Local Plan requires *inter alia* that development should not involve the loss of or damage to trees, woodlands, hedgerows or other landscape features of value to the character of the area unless they can be replaced with features of equivalent or enhanced value. These policy provisions are supported by the Council's adopted Trees and Development SPD which aims to ensure that trees are fully considered as part of the planning process so their multiple benefits can be experienced by the Borough of Eastleigh and by existing and future residents. Key Point 2 within the SPD sets out a presumption in favour of retaining existing trees which aligns with the provisions of Paragraph 136 of the NPPF.

Paragraph 11.2 of the SPD states that where trees could be impacted by development, applicants must supply appropriate arboricultural information. BS5837:2012 *Trees in relation to design, demolition and construction – Recommendations* (BS 5837:2012) advises that a realistic assessment of the probable impact of any proposed development on trees should take account of the characteristics and condition of the trees concerned, with due allowance and space for their future growth and maintenance requirements. To maximise the probability of successful tree retention, account should be taken during the design process of any direct damage both below and above ground, as well as future pressure to remove trees.

The Council's Tree Officer has highlighted the presence of a group of Oak Trees which lie along the western side of Shamblehurst Lane North in the proximity of the access and fencing works that have been undertaken. These trees have amenity value and contribute positively to the prevailing verdant and semi-rural character of the Lane. Significant volumes of soil, which appear to have resulted from the construction works associated with the access, have been piled within the root protection area of these trees, with this soil being held back / informally retained by the perimeter fencing that has been erected. As noted by the Tree Officer, the volume and siting of this soil could have a significant impact on the health of the trees and may, ultimately, result in tree failure. Accordingly, arboricultural information has been requested to be provided to support the application, which should comprise of a method statement detailing how the existing situation would be rectified, in the interests of the health of these trees.

No arboricultural information has, however, been provided and accordingly, the proposals are considered to therefore be in conflict with the provisions of Policy DM1 of the Local Plan, the Council's Tree and Development SPD, and Paragraph 136 of the NPPF.

Pollution and Contaminated Land:

Policy DM8 of the Local Plan states that development will not be permitted if it is likely to impact on public health or have unacceptable environmental impacts, including through pollution or land contamination; where sites are known or suspected to be contaminated, before a site is developed, the Council will require the contamination to be remediated to a standard where, as a minimum, it cannot be defined as 'contaminated land' under Part IIA

of the Environmental Protection Act 1990. These requirements are considered to be consistent with the provisions of Paragraph 187 of the NPPF.

The Council's Environmental Health Officer (EHO) has reviewed the proposals and has advised that the nature of materials used and stored on site may pose a risk of harm to health or pollution of the environment. Further impacts in these regards may also have potentially resulted from the physical development works undertaken on site and the activities and operations associated with the proposed use. The EHO has recommended that a ground/land condition survey be submitted, with this to include an assessment of potential contaminants, including identifying areas where waste has been stored, where imported materials have been used on site to provide hard standing or alter ground levels, and if any materials have been buried. Additional information on how materials and waste is managed on site has also been identified as being required.

In the absence of these details, which have not been provided as part of the application submission, the Local Planning Authority cannot be satisfied that the development would not result in unacceptable impacts upon public health or the environment through contamination or pollution. The application is therefore contrary to Policy DM8 of the Local Plan and Paragraph 187 of the NPPF.

Flood Risk:

Policy DM5 of the Local Plan states that development will only be permitted within areas at risk of flooding if a number of specified criteria are met. These include, but are not limited to: that the development includes a site-specific flood risk assessment which demonstrates that the development, including the access, will be safe without increasing flooding elsewhere; that the scheme incorporates appropriate flood protection, floor resilience and resistance measures; and appropriate flood warning and evacuation plans are in place. Development should also not increase flooding elsewhere.

A small portion of the area within the application boundary, to the south-western corner of the site, is situated within Flood Zone 3. Whilst the siting of any development within this Flood Zone would usually require the submission of a Flood Risk Assessment (FRA), in this particular case the Environment Agency (EA) are satisfied that, as the development incorporates the storage of vehicles and plant only with no built form being proposed, the development can proceed without the need for an FRA and no objection has been raised subject to the imposition of a condition in respect of ground levels. As the application is retrospective, this condition could not be pre-commencement as recommended, however, had the application been recommended for approval, the requisite details requested by the EA could be required to be submitted within a stipulated timescale (for example, 3 months from the date of approval).

In light of the EA's comments, there is considered to be no conflict with Policy DM5 of the Local Plan in respect of the matter of flood risk.

Equalities Act:

Section 149 of the Equalities Act 2021 created the public sector equality duty. Section 149 states:

- A public authority must, in the exercise of its functions, have due regard to the need to:
 - a. Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b. Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c. Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

When making policy decisions, the Council must take account of the equality duty and in particular any potential impact on protected groups. It is considered that this application does not raise any equality implications.

Climate Change:

In July 2019, the Council declared a Climate Change and Environmental Emergency. In doing so it agreed, among other this, to: (a) put in place measures to ensure the Council's own operations and functions achieve carbon neutrality by 2025; (b) work with partners to aim for all projects and services delivered in the Borough to achieve carbon neutrality by 2030; (c) ensure that the Council's procurement policy recognises carbon neutrality as one of its primary considerations; and (d) recognise the urgency of action to mitigate and adapt to climate change in every decision taken by the Council. This is underpinned by the Climate and Environment Emergency Strategy 2020-2030 and the supporting Climate and Environmental Emergency Action Plan – Update June 2020.

The declaration of the Climate Change and Environmental Emergency demonstrates a strong commitment from the Council to achieve net zero. The NPPF and development plan do not set this as a specific target, but it is a material consideration to be considered alongside all other material considerations. In any case addressing climate change is a core part of the NPPF and Local Plan policy. When considering the impact of climate change, the proposed development is expected to be resilient to the potential effects of climate change and is expected to limit impacts on climate emissions as a result of the development or its use.

Recommendation:

PERMIT ☐

REFUSE ☒