

Application Ref	LDC/24/96924
EBC Legal Ref	CD/013827
Site Address	Beech Ridge, The Bridleway, Brook Lane, Botley, Southampton, SO30 2ER
Agent	Louise Cutts, Wessex Planning Ltd, Meadowsweet Cottage, Morleys Lane, Ampfield, Romsey, SO51 9BJ
Applicant	Samuel Skinner, Tamella, Brook Lane, Botley, SO30 2ER
Use/Development	Existing use as a yard for the storage of building materials and associated vehicle parking

The following external consultees were contacted in relation to the above application –

- Botley Parish Council
- Neighbouring properties in Blossom Close, Cobbett Way, Orchard Court, Broad Oak, and Marls Road
- Eastleigh Ramblers
- Countryside Service (Hampshire County Council)

Comments were invited to be received until 29th March 2024. All comments received are detailed below.

Consultee	Comment(s)	Agent/Applicant Response
Botley Parish Council	Members of the Planning & Highways Committee having considered this application and agreed the following comments: LDC/24/96924 – Beech Ridge, The Bridleway, Brook Lane – Lawful Development Certificate for Existing Use: Yard for the storage of building materials and associated vehicle parking – see planning statement, site plan and other accompanying details. Object The committee noted several objections from members of the public disputing that this area has been in use as a yard for the period of time as stated. Members of the public have stated that these trees were only cut down very recently (in the last 3-4 years) and that prior to this, the area was not used for storage. The area in question is	

	within the Countryside Gap as outlined in the Eastleigh Local Plan. The committee felt that the removal of the trees and further industrialisation of this area is not in keeping with the Local Plan.	
Eastleigh Ramblers	It is our view that a Certificate of Lawfulness of an Existing Use or Development cannot be issued in respect of that part of the site that comprises Bridleway 17 Botley as any use thereof which is inconsistent with its status as a public highway would be a criminal offence. Under Section 137 of the Highways Act 1980 it is an offence without lawful authority or excuse to obstruct the highway and similarly any interference with the surface of a bridleway would be an offence under Section 131 A of the Highways 1980 Act. Although the applicant may be the owners of the subsoil the surface of the bridleway is vested in the highway authority under Section 263(1) of the Highways Act 1980. It is our view therefore that your Council has no alternative but to refuse this application unless it is amended to exclude the bridleway. We suggest therefore it is appropriate to seek from the Countryside Service of the County Council a plan identifying the extent of the public highway. Please also see the attached consultation response.	
4 Blossom Close (Resident)	I don't need to say what they have said is still rubbish, there was no storage in there before and they only used the blue bit in the plans. Not to mention removing the trees has changed its use from woodland to commercial. The traffic in the mornings is terrible along what should be a bridleway rather than a road, and they are still burning a lot of commercial waste. I am writing to object to the development certificate that has gone to consultation. Firstly the land marked in the drawing has not been used for storage over the last 10 years, and you can see this on street view from previous years. I believe the witness	

	statements are getting confused with land that has been used before to west of the land marked on the map, one witness even makes reference to the tin building that is there to the west. Secondly I raise that this is a different story of land use to the previous application and therefore trying to tighten up what they are saying to allow the application to go through, after seeing comments from the previous consultation. Lastly even if you are to assume that this land did have some minor storage on before (which it did not) and that an increase in this use does not form a change of use according to the published legal advice, I consider the previous substantive land use to be woodland, and forms part of the land gap between Hedge End and Botley. In the application they acknowledge they removed trees, and again viewing street view will show this was dense woodland before, and therefore the land use has substantially changed. Again, this can be seen from both satellite view of the site and street view, when using the feature to look back over the years and not just the latest view. The two storey building was also built as part of the work when the trees were cleared, so all the buildings on this site are new.	
Brook Lane (Resident)	Please see the attached consultation response.	
Hampshire Countryside Service	Consultation Response: No Objection Thank you for consulting Hampshire Countryside Service (the Service) as Highway Authority in respect of Public Rights of Way (PROW) and Commons Registration Authority. Please accept this as our response to the application, taking into account the material considerations relating to PROW, Commons and impacts to Hampshire County Council (HCC) Country Parks and Countryside Sites.	

	Site Context: • The definitive line of Botley Bridleway 17 (BW17) runs northeast from the parish boundary to King Copse Avenue, continuing on the other side along Maris Road, then along The Bridleway, then through, respectively west to east, land owned by HCC, the site of this application and woodland, terminating at Brook Lane. • The site is not located in a material proximity to any HCC Countryside Site. A copy of the Definitive Map of Rights of Way and Countryside Sites and Definitive Statement can be found at: Hampshire Rights of Way online Hantsweb and The definitive map and statement Hampshire County Council (hants.gov.uk). Summary: The Service offers no objection to the acceptability of this application in planning terms. However, government guidance regarding Lawful Development Certificates states, “the grant of a certificate applies only to the lawfulness of development in accordance with planning legislation. It does not remove the need to comply with any other legal requirements” (GOV.UK Guidance – Lawful Development Certificates 2014, Paragraph 004). The Highways Act (1980) is one such ‘other legal requirement.’ The recorded line of BW17 runs west to east through the site close to the north boundary, but is not accessible to bridleway users, being obstructed by the existing yard, in contravention of Section 137 of the Highways Act (1980). It is understood that the route to the south called The Bridleway, via which this site is accessed by vehicles from Brook Lane or Maris Road, has been used by bridleway users for many years as an alternative and, as a result, may have accrued public rights through long, consistent use. The Service, however, as Highways Authority for PROW, alerts the applicant to the existence of the	
--	--	--

	recorded public highway (BW17) through their site, as it (the Service), in the event a member of the public served notice on it to do so, would be required to begin enforcement procedures against the applicant to open up access to the legally recorded line of the path. To avoid such a scenario, the route and surface of the PROW should be cleared of obstructions and made safe for public use. Alternatively, the Service would consider an application under Section 119 of the Highways Act (1980) to divert the recorded line of BW17 to another suitable route outside the site, possibly the existing track called The Bridleway. Further information on this process can be found here: Public Path Orders Hampshire County Council (hants.gov.uk)	
5 Cobbett Way (Resident)	I do not consider the application to be a true reflection of what has taken place on the site during the last ten years. I have lived in Botley for the past 33 years within site (150m) of the area referred to in the application and can clearly see the area in question from the rear of my property. I often use the bridleway that passes the application site as a walking route and especially since 2015 when my wife's parents moved in to Hedge End. I was particularly disturbed when around 2019/2020 the ditch that runs alongside the bridleway was piped and stoned-over and an access gate was erected onto the wooded area. The site was then cleared of some very large trees and undergrowth, and the area was stoned over. Since then further tree clearance has been undertaken right up to the field boundary on the North side and the area was extended Eastwards with further tree-felling over the subsequent years/months. Very tall storage buildings have been erected on the site since it was stoned and the area has increasingly become industrialised with parking for business vehicles. I would like to also note that since the construction of the compound there has been frequent	

	(almost daily) burning of trade waste which has often smelled of burning plastics and spread smoke across the local area. Prior to 2019, there were no structures, no car parking, no storage of materials and no burning of trade waste on this area. Prior to constructions of this industrial compound, the area that <u>was</u> previously used for storage and collection of waste materials from the business was a widened section of the bridleway just West of the application site (not within the wooded area) which can be clearly seen in all of the Google Earth images below. The area was next to a derelict tin shed which is still standing and it is not until the May 2020 image that the compound area in the application can be seen to have been felled and stoned. I have no objection to the original area (next to the tin shed) being used for waste storage and collection and would agree that this has been used for the past 10 years or more. I also think that the statements provided from the suppliers to support this application may be confusing this original area as that to which they have visited over the years. All other statements may well be from parties with a vested interest.	
--	--	--