



Appeal Decision

Site visit made on 23 December 2025

by Grahame J Kean BA (Hons) Solicitor, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 February 2026

Appeal Ref: APP/Q1770/C/23/3333869

Shedfield Equestrian Centre, Botley Road, Shedfield, Southampton, Hampshire, SO32 2HN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Shedfield Equestrian Centre against an enforcement notice issued by Hampshire County Council.
 - The notice was issued on 23 October 2023.
 - The breach of planning control as alleged in the notice is: change of use of land from agriculture to use as a waste transfer station.
 - The requirements of the notice are:
 1. Cease importation of waste materials to the Land;
 2. Remove all waste materials from the Land to a suitably licenced facility;
 3. Remove all plant, buildings and structures from the Land; and
 4. Reinstate the Land to a state suitable for agriculture.
 - The periods for compliance with the requirements are:
 1. Cease importation of waste materials to the Land - Within 1 day;
 2. Remove all waste materials from the Land to a suitably licenced facility - Within 1 month;
 3. Remove all plant, buildings and structures from the Land - Within 3 months; and
 4. Reinstate the Land to a state suitable for agriculture - Within 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
-

Decision

1. It is directed that the enforcement notice is corrected by inserting the words: “without planning permission the unauthorised material” at the start of the allegation of breach of planning control.
2. Subject to the correction, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural matters including the notice

3. The clear intention behind the notice is to target a change of use that is material in planning terms, from agriculture to use as a waste transfer station (WTS) and for clarification I will amend the allegation accordingly.
4. Although considered in local plan policy terms as a new site, it was noted in July 2023 that the WTS had been operational as an unauthorised development for approximately 18 months. Furthermore, in the Council’s “Final Comments” a document that is undated, but which was submitted around April 2024 it is noted that since a planning application (to retain the unauthorised development the

subject of the enforcement notice) was refused the original operator has vacated the site and a new operator has moved in.

5. When I inspected, I saw that the site was to all intents and purposes non-operational, no access was obtainable to the interior of the fenced compound although visible inside was a massive amount of waste material that had clearly been left in situ for a considerable period without being processed.
6. The previous application is not before me. The current appeal relates to the application deemed to have been made for the matters that constituted the breach of planning control when the notice was issued on 23 October 2023, ie its use as a waste transfer station. I must consider the planning merits of that operation so far as it was subsisting in October 2023, but I cannot ignore the subsequent activities and condition of the land which has remained in the same ownership, ie of the appellant company despite its recent transfer to a different operator.
7. The Council's appeal statement relies heavily on the officer's delegated report on the previous application to retain the ongoing use of the site as a waste transfer station (WTS), which is not unusual, but the statement misleadingly treats the deemed application mostly as a "proposal" or prospective development which it is not, as does the appellant in his statement. The unauthorised development has taken place. The scope of a deemed application is governed by s177(1)(a) in that permission may be granted for the matters stated in the notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or the whole or any part of the land.

Ground (a)

8. The key development plan policies pertaining to this appeal are: Policies 1, 5, 10, 12, 13 and 29 of the Hampshire Minerals & Waste Plan 2013 (HMWP), Policies CP13 and MTRA4 of the Winchester City Council Local Plan Part 1 – Joint Core Strategy 2013 (LP1) and Policies DM10, DM18 and DM23 of the Winchester City Council Local Plan Part 2 2017 (LP2). I refer to Parts 1 and 2 together as LP.
9. The evidence before me is based primarily on the adopted local plan policies, about which there is general agreement to their relevance. Although the substantive issues may be referenced in the draft plan they are covered in the extant development plan. The inspector's report on the draft update HWMP is not due to be published until sometime after the proposed modifications have been subject to consultation. I therefore give its policies limited weight in the appeal.
10. The main issues are:
 - a) need and whether the development is in a sustainable location;
 - b) the effect of the development on the character and appearance of the area including landscape impacts; and
 - c) whether the development provides safe and suitable access to the highway network and adequately mitigates any significant effects on highway safety.

Need and sustainability of location

11. The appeal seeks planning permission for a WTS on the appeal site. The development was not considered by the Council to require an Environmental

Impact Assessment under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. I see no reason to disagree with this assessment.

12. The site appears to have a lawful existing use related to agriculture and equestrian activity as confirmed by Winchester City Council (WCC) who has dealt hitherto with development within the wider equestrian centre. The site is outside the settlement boundary as defined in the LP and the unauthorised use conflicts with LP Policy DM1 in that only development appropriate to a countryside location is permitted. LP Policy DM10 permits new development only in locations where an operational and essential need exists.
13. The LP defines the extent of larger settlements by means of settlement boundaries (Policy DM1) which were reviewed and are up to date. LP1 Policy MTRA4 restricts development within the countryside according to certain criteria which are not all met here due to the site not being in a continuously developed road frontage such that it would not reinforce the role or function of a settlement.
14. The site may be in the broad Partnership for Urban South Hampshire area but not in an area of major new or planned development and there is no formal site allocation or designation of an enterprise zone. The Council does not view the WTS as an essential facility or service in this countryside and rural setting and considers it as contrary to LP Policy 29 (Locations and sites for waste management) given the lack of detailed justification of need for use of this site.
15. Some detail is given of the potential market area, and paragraph 6.196 of the supporting text in the HMWP expects market led delivery, therefore not identifying or allocating individual sites for waste development. However, the submissions lack specific detail on the need for this exact facility, in this exact location, making it difficult to ascertain if there is a special need for this development. I therefore have concerns as to whether HMWP Policy 29 is met in this respect.
16. A WTS might contribute to the overall capacity needs set out in the HMWP and Policy 27 (Capacity for waste management development) of dealing with 2.62 mtpa of non-hazardous waste by 2030. However, the submission provides no detailed information about the sources of waste processed. Hampshire Waste Disposal Ltd are said to have operated from the site but no particular area was specified for collection of waste on their website according to the agents for Shedfield Parish Council (SPC), implying that the business could operate from several locations in Hampshire whilst still diverting waste from landfill.
17. The lack of sufficient detail on sources of waste collected hinders an appreciation of exactly where the operation sits in the waste hierarchy and the true extent to which it would make an effective and sustainable contribution to recycling.
18. That no suitable alternative sites in the locality are identified would not justify an unsuitable and unsustainable use on the appeal site. A similar internet-based search referenced by the appellant was considered in the earlier appeal decision Ref APP/L1765/C/22/3300697 but discounted. There were no pre-application enquiries as to whether any of the possible alternative sites could meet policy requirements and be suitable. In addition, WTSs can be constrained by international, national and local designations but there is no evidence of an assessment that has led to a conclusion as to the suitability of the appeal site.

19. It is said that there are very few sites capable of meeting the demand for a waste transfer facility in the area but WCC commented that several employment allocations in the district could be suitable for such businesses, yet no proper assessment of other sites in the area that may be considered acceptable has been made to demonstrate that this location is the only viable option for a new waste site.
20. I conclude on this issue that the appeal site, whilst it might make a small to moderate contribution to meeting capacity needs, is in a fundamentally unsustainable location contrary to the aims of LP1 Policy MTRA4 and HMWP Policy 29.

Character and appearance

21. HMWP Policy 13 (High-quality design of minerals and waste development) requires that waste development should not cause an unacceptably adverse visual impact and should maintain and enhance the distinctive character of the landscape. HMWP Policy 10 (Protecting public health, safety and amenity) aims to protect residents from significant adverse visual impacts, among other things.
22. When I visited, I saw that far from operating as a WTS the site appeared disused and a very substantial amount of waste was deposited there. No final comments document was submitted by the appellant in response to the Council's statement and the description of the existing operation in the appellant's statement is clearly out of date.
23. The appellant states that HMWP Policy 13 is complied with and the operation has to be seen in the context of other commercial development. The site is not visible from the main settlement area, and there are no designated landscape or heritage assets directly affected. The site may not extend into open landscape but it is adjacent to woodland and occupies land with a lawful agricultural use. WCC has said that enforcement action on adjoining sites will involve removal of unauthorised buildings and infrastructure presently screening of the appeal site and when removed, impacts on the local landscape will be created and will need to be assessed. As such the site should be viewed as an agricultural area with limited retail use to the front of the wider site, an equestrian facility, Lockhams recycling and residential units.
24. Therefore, I have concerns as to whether LP Policy DM23 (Rural Character) is being complied with in terms of the effect of the development on the rural character of the area, by means of visual intrusion, introduction of incongruous features, and destruction of locally characteristic rural assets, or by impacts on the tranquillity of the environment. Several submissions are made by interested persons who object to the facility at the appeal site on this basis.
25. The site, although relatively small in comparison to many WTSs, causes a great deal of visual harm due to the mountainous pile of waste materials that appear to have been simply dumped on the site without treatment. Were the site operating as previously I would still have doubts whether the visual impacts of such a use on this site would not cause harm. Harm caused to the character and appearance of an area does not depend on there being public vantage points. Thus, its location near to existing buildings and woodland, the absence of public rights of way nearby or residential uses in close proximity do not provide a compelling reason to accept the serious harm to visual amenity now being caused.

26. As to design, the development is already on site, so the focus is on whether the design is considered to be acceptable. The WTS is enclosed on three sides by concrete Benton (or Beton) concrete blocks with RSG pillars to prevent over-spill into the surrounding land. The total waste storage capacity was stated to be c100 tonnes. Unfortunately, there has been no opportunity to observe operations, hours, processes and so forth, to verify the claims that are made for it in the appeal statement. The operational footprint of the site appears to be as stated, surfaced with impermeable concrete but not as far as I could see, over all parts of the access road where it was far from the smooth surface as claimed, for vehicle and HGVs that might reduce noise from vehicle movements.
27. I note that in the previous appeal decision cited above it was found that the unauthorised commercial use of land and associated operational development on land adjacent to the current appeal site resulted in unacceptable harm to the character and appearance of the area and with potential environmental risks and as such was in an unsustainable location, contrary to the suggestion, possibly made in error, within the appellant's statement.
28. The current condition of the site in my view undermines the efforts of the appellant to establish that it makes an important contribution towards tackling fly-tipping in the area. WCC also commented, which was undisputed, that the site is 260m from residential properties and the track way leading to the site is immediately adjacent to the dwellings.
29. I saw that the waste and general detritus had spilled over the confines of the compound area amid makeshift scaffolding and some parts of the waste mound to the side and rear are hard up against the adjoining vegetation and in close proximity to some trees.
30. I conclude on this issue that the design, layout and appearance of the appeal site is not high in quality and does not meet the highest standards of design as required by LP1 Policy CP13 (High Quality Design) and HMWP Policy DM16. The use site results in visual harm to countryside and landscape character and a loss of tranquillity contrary to LP1 Policy CP13 and LP2 Policy DM23. The use of the site is also contrary to the aims of LP1 Policy MTRA4 and LP2 Policy DM10.

Highway safety

31. The submitted transport statement (TS) dated May 2023 states that it addresses the issues raised by the Council and finds that safe and suitable access to the highway network is provided, the traffic generated has been operating without incident and does not have a severe impact on the safe functioning of the road network. Of the 26 incidents along the A334 identified by the TS, only 1 was associated with the access to Shedfield Equestrian Centre and that was said to be caused by human error and not the geometry of the junction.
32. However, the July 2023 delegated report noted that on review of the TS, the local highway authority (LHA) objected on road safety grounds, stating that site access/junction geometries and visibility with the public highway (A334) were inadequate for associated vehicular movements, with widening required, referring to accident data for this section of the A334 which gave cause for concern. The accident at the site entrance appears to be where a car travelling northwest on the A334 collided with a car slowing to turn left into the equestrian centre.

33. The site is served by an existing access onto the A334 and has generated c60 traffic movements, ie 40 van / cage van / skip truck (7.5t) movements, and 20 refuse vehicle movements. The A334 has a posted speed limit of 40mph. The LHA had noted initially that the site only operated at a quarter of its throughput limit of 75,000t a year. On receipt of updated information, the LHA considered the throughput had not been clarified and tracking information was insufficient.
34. The submitted survey showed that 85th percentile traffic speeds northbound were 45.5mph and south-bound traffic was 44.7mph but volumetric data did not show vehicle types so the impact of additional HGVs on current HGV flows on the A334 could not be assessed. The visibility splays drawing NJC-001 omitted the trees or telegraph poles on both sides of the access which could obstruct sight lines.
35. As to the tracking details, the swept path analysis of larger vehicles showed that they have to veer into oncoming traffic to enter the site from the south, considered hazardous to other users, and contrary to LP2 Policy DM18. Most vehicles using the access are said by the appellant to be smaller domestic and commercial vehicles, and the 7.5t Skip lorry is used "very infrequently". However, Hampshire Waste Disposal Ltd who appear to have operated from the site were understood to advertise, according to SPC whose comments are undisputed, a skip hire service as a key aspect of their business claiming a 24-hour service on their web site. Be that as it may, I am not satisfied on the information currently available that two HGVs at the site access simultaneously, could safely negotiate the junction. Indeed, on-site observations of over-running of the verge appear to support the need to widen the existing junction.
36. Therefore, I find on the basis of the information before me that the use is not in accordance with HMWP Policy 12 (Managing traffic) and LP2 Policy DM18 (Access and Parking), because the access is inadequate to accommodate the development safely which would result in an unacceptable impact on the safety of users of the development and adjoining highway.

Other matters

Public health and effect on nearby occupiers

37. The use of noise reduction practices, dust suppression, and locating the facility close to lawfully existing commercial development may in principle assist in mitigating adverse effects in relation to public health matters and effects on nearby occupiers.
38. The Council, at least until recently, had no concerns, based on an assessment that included that an environmental permit (EPR/WE1474AB) was granted by the Environment Agency (EA) regulating all on-site waste-related operations, that the development met the requirements of HMWP Policy 10 (Protecting public health, safety and amenity) and LP2 Policy DM19 (Development and Pollution). However, although the appellant considers that the site is not close to residential dwellings that could be disturbed by the activities thereon, a nearby resident has objected that they observed a lot of burning of materials on site.
39. Concerns were raised about the issue of the permit without the benefit of planning permission. The EA makes unannounced visits to ensure sites operate in accordance with permit conditions which is a matter for it to determine, however

the condition of the site and the waste left thereon, irrespective of the harm to visual amenity, adds to my concern in relation to public health generally.

Flood risks

40. The site is in Flood Zone 1, ie at a low risk of flooding. The EA had no concerns as to surface water, flooding or risk to groundwater. I note that the EA said that if permission were granted the operator should be informed that areas used for storage, sorting and processing of waste with significant polluting risks must be carried out under cover and not drain to the surface water system. These matters are for the EA to examine, but the current condition of the site causes concern as to whether the open air of storage of this accumulated waste is acceptable to it, despite no concerns having been raised previously by statutory consultees.

Previously developed land

41. The appellant asserts that the site is previously developed land being in the curtilage of the wider equestrian centre. I disagree. Both the Council and WCC consider the land to have an existing lawful agricultural use and on the evidence submitted I see no reason to disagree. The site is not so intimately associated with the buildings that form the core equestrian and riding school activity that it is part and parcel thereof. Indeed, the site appears to be on the periphery of the total ownership of the appellant which is extensive and where disparate activities are being carried on. To extend the curtilage of the centre to the appeal site would be to include it within an excessively large and functionally disconnected unit.

Trees

42. The site is covered by a tree preservation order (TPO) but WCC states that most of the trees covered by the order have been removed and are subject to enforcement action. Trees adjacent to the site are covered by the TPO as noted in the submitted 2023 tree survey. Any final design requires an arboricultural Impact assessment and method statement with accompanying tree protection plan before permission should be granted. At present there is insufficient information to determine whether there would be further harm to protected trees and therefore additional concerns whether the use is contrary to LP2 Policy DM24. Consequently, I disagree that any permission that might be granted now could be the subject of a condition that left matters to be resolved at a later date.

Noise

43. Concerns were expressed by SPC over the periods when the 2021 noise assessment was carried out, the survey locations, omission of residential receptors closer to the facility, the attenuation figures and the cumulative impact from individual plant items. A nearby resident has also objected that when in use, the operation was heard in the home, querying the data collated from the survey. Whilst noting its conclusions, the submitted assessment is not up to date and the appellant has not commented on the representations made by interested persons, which reduces the weight that it would otherwise carry in favour of the appeal.

Planning balance

44. The appeal seeks permission to retain a WTS use as a new business in the countryside which is unrelated to any existing authorised uses on the wider site and does not relate to expansion of an existing business. Hardstanding and new

buildings and structures are introduced onto the site, and no building is reused to facilitate the use. Lists of alternative sites are submitted but insufficient reasons are given for dismissing them. The unauthorised development thus fails to meet the requirements of LP1 Policy MTRA4 and LP2 Policy DM10.

45. In addition, the WTS has resulted in an encroachment into the countryside occasioning visual harm and a loss of tranquillity contrary to policies CP13 and DM23. Furthermore, the TA submitted indicates that vehicles need to veer into oncoming traffic to access the site which endangers other highways users and is contrary to the aims of LP2 Policy DM18.
46. The site benefits from an environmental permit issued in 2021 that appears to cover a household commercial WTS. Currently, large piles of waste have been left without treatment and the infrastructure that would be used to process the waste lies unused. It is impossible to tell from the size of the waste mound what lies within it. It is for the EA to assess whether storage of this waste left unattended comes within the purview of the permitted operation of storage pending recycling/reclamation. However, the planning objections concerning harm to visual amenity and the character and appearance of the area are well founded. The possibility of additional harm to general amenity and public health is also evident.
47. Employment at the site was assessed at 4 people according to the appellant. Although in principle a local facility would modestly support the local economy and provide local employment there is no evidence that is taking place. The site has been allowed to deteriorate to the extent where the development in situ has a considerably negative effect on overall sustainability, but principally in environmental terms. National Planning Policy Framework, paragraph 85 advises that significant weight should be given to support economic growth, however the overall economic benefit to be given to this enterprise is moderate at best.
48. In a properly working site, some contribution might well be made to the overall capacity needs identified in the HMWP.
49. However, the current state of the land inhibits a proper consideration of the operations involved in the dormant use. For example, it is difficult to evaluate without seeing the development as it was in 2023, whether good working practices are undertaken to ensure the WTS is effectively laid out, efficiently sorts and transfers waste brought to the site, and so forth. Its condition informs the level of confidence I have, which is low, that were permission to be granted in accordance with the development plan and other considerations, conditions attached thereto would be effectively complied with without constant monitoring by local authorities.
50. Section 38(6) of Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. I have concluded that although there are modest benefits to the development, there would be clear conflict with key policies in the development plan and conflict with the development plan as whole. There are no other considerations that indicate I should determine the appeal otherwise than in accordance with the development plan. Therefore, I shall refuse planning permission.

Ground (g)

51. The appeal on this ground is that insufficient time has been given to comply with the steps of the notice. From a commercial perspective ceasing importation within 1 day is feasible and necessary in my opinion, whether or not practicable from a commercial perspective. The site appears to be vacant and secured in any event and no further importation appears to be taking place.
52. The Council is mistaken in believing that just because the operator is aware of the enforcement action he should be including provisos in new contracts that waste collections may have to stop at short notice should the appeal fail. The Council should be aware that appellants are entitled to assume success, whatever view it has of the merits of the appeal.
53. That said, the periods set out in the notice are necessary and sufficient to enable compliance. The appeal on this ground fails.

Conclusion

54. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a correction and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Grahame J Kean

INSPECTOR