



WOKINGHAM BOROUGH COUNCIL

Statement by Local Planning Authority

Appellant:	Mr Tim Evans of Gravelley Bridge Shooting Association
Site:	Land at Gravelley Bridge Farm, Grazeley Green Road Grazeley, Reading, RG7 1LG
Local Planning Authority Reference:	RFS/2023/088920
Planning Inspectorate Reference:	APP/X0360/C/25/3374730

December 2025

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1.0 INTRODUCTION

- 1.1 Wokingham Borough Council submits this statement of case in response to the appeal against the enforcement notice issued 12th September 2025 at Land at Gravelley Bridge Farm. The alleged breach of planning control is:

Without planning permission, the material change of use of the Land to a shooting club facility (Sui Generis) and unauthorised operational development (erection of fencing, hardstanding and buildings) and engineering operation (creation of bunds)

- 1.2 The Land subject to the enforcement notice accompanies the notice.

- 1.3 The Council's reasons for issuing the notice are as follows:

i) It appears to the Council that the change of use has occurred within the last 10 years.

ii) The unauthorised development represents an unsustainable and unacceptable form of development outside of development limits, within the countryside, with no justification and which has a detrimental urbanising impact on the character and appearance of the countryside. As such, it is contrary to the spatial objectives of the development plan and to Wokingham Borough Core Strategy (2010) ("Core Strategy") Policies CP1, CP3, CP6, CP9 and CP11 and Wokingham Borough Managing Development Delivery Local Plan (2014) ("MDD") Policies CC01 and CC02 and the National Planning Policy Framework (NPPF) (2024).

iii) As a result of inadequate vehicular access into and out of the site, the unauthorised development results in the deterioration of the enjoyment of SHIN30 pedestrianised public right of way. The unauthorised development therefore conflicts with paragraph 105 of the National Planning Policy Framework (2024) and policies CP3 and CP11 of the Core Strategy (2010).

iv) The unauthorised development has failed to demonstrate that it is acceptable in terms of flood risk and that it is located within the sequentially most preferable location. As such, the development is contrary to the National Planning Policy Framework (2024), policy CP1 of the Core Strategy 2010, and policy CC09 of the Managing Development Delivery Local Plan (2014).

v) The unauthorised development has not demonstrated that it can be safely accommodated, having regard to the needs of Blue light services and the emergency off-site plan, for the Atomic Weapons Establishment site at Burghfield which would increase the likelihood of significant effects affecting human health. As such, the development is contrary to Policy TB04 of the MDD Local Plan 2014, policy CP3 of the Core Strategy and the National Planning Policy Framework (2024).

vi) The unauthorised development has not demonstrated that it would not result in adverse noise implications (from shooting) to the surrounding area,

contrary to policy CC06 of the Managing Development Delivery Plan (2014) and the National Planning Policy Framework (2024).

vii) The unauthorised development has not demonstrated that it would not result in adverse land contamination, contrary to policy CP1 of the Core Strategy (2010) and the National Planning Policy Framework (2024).

viii) The unauthorised development has not demonstrated that it would not result in increased surface water from the development that would be managed in a sustainable manner, contrary to policy CC10 of the Managing Development Delivery Plan (2014) and the National Planning Policy Framework (2024).

ix) The Council considers that planning permission should not be given because planning conditions would not overcome these objections.

x) To remedy the breach of planning control.

- 1.4 The appellant has appealed against the notice on grounds (a) and (g). An appeal made under ground (d) was withdrawn by the appellant on 19/11/2025. As such, this statement will not respond to the assertions made in the Appellant's statement regarding ground (d).

2.0 THE APPEAL SITE AND SURROUNDINGS

- 2.1 A shooting club is operating at land at Gravelley Bridge Farm. The shooting club (Gravelley Bridge Shooting Association) accommodates air rifle and clay pigeon shooting. The facility is open to members of the public between Thursday – Sunday.
- 2.2 The unauthorised development involves the change in use of the land to Sui Generis use from agriculture (formerly open land), along with operational development in the form of a club house/ rifle range, storage units, a toilet block, hardstanding (paving) has been laid on the entrance to the club house and a fence has been constructed on the western side of the range. Bunds, which are an engineering operation, have been created on the eastern side to separate the range from SHIN30 Public Right of Way (PRoW) that runs parallel to the range.

3.0 POLICY BACKGROUND

- 3.1 The Development Plan for Wokingham Borough comprises Wokingham Borough Council's Core Strategy (January 2010), the Managing Development Delivery (MDD) Local Plan (February 2014), the Central and Eastern Berkshire Joint Minerals & Waste Plan (January 2023) and the Shinfield Neighbourhood Plan (2017).
- 3.2 The Development Plan Policies of relevance to this appeal are listed below:
- **National Planning Policy Framework (2024)**

- **Wokingham Borough Core Strategy (2010):**

- CP1 – Sustainable Development
 - CP3 – General principles for development
 - CP6 – Managing Travel Demand
 - CP8 – Thames Basin Heaths Special Protection Area
 - CP9 – Scale and location of development proposals
 - CP11 – Proposals outside Development Limits
 - CP15 – Employment Development

- **Managing Development Delivery Local Plan (2014):**

- CC01 – Presumption in Favour of Sustainable Development
 - CC02 – Development Limits
 - CC04 – Sustainable Design and Construction
 - CC06 – Noise
 - CC07 – Parking
 - CC09 – Development and Flood Risk (from all sources)
 - CC10 – Sustainable Drainage
 - TB04 – Development in the vicinity of Atomic Weapons Establishment (AWE),
Burghfield
 - TB21 – Landscape Character

- **Supplementary Planning Guidance**

- Borough Design Guide (2012)

Local Plan Update

- 3.3 The Local Plan Update (LPU), the plan which will supersede the adopted Core Strategy and MDD local plans, is at Regulation 22 stage as it has been submitted to the Planning Inspectorate for examination. As per paragraph 49 of the NPPF:

Local planning authorities may give weight to relevant policies in emerging plans according to:

a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)

- 3.4 As a whole, the LPU is still given limited weight, despite its advance stage of preparation. This is owing to unresolved objections to a great number of the

policies contained within it. However, those policies highlighted in yellow in the are those that have received less objection and therefore individually are considered by officers to hold moderate weight. All the others hold limited weight.

Relevant LPU policies are as follows:

SS1: Sustainable development principles
SS2: Spatial strategy and settlement hierarchy
SS5: Development in the countryside
SS7: development in the vicinity of Atomic Weapons Establishment (AWE)
CE1: Design principles for efficient buildings
CE2: Environmental standards for non-residential development
C1: Active and sustainable transport and accessibility
C4: Green and blue infrastructure and public rights of way
C5: Parking and electric vehicle charging
ER3: Supporting the rural economy
FD1: Development and flood risk (from all sources)
FD2: Sustainable drainage
NE5: Landscape and design
NE6: Valued landscapes
DH2: Safeguarding amenity
HC5: Environmental protection
HC8: Noise pollution
HC9: Contaminated land and water

- 3.5 The primary focus is still policies contained within the adopted development plan and the NPPF.

4.0 APPELLANT'S GROUNDS OF APPEAL – GROUND (a)

- 4.1 Ground (a) – that planning permission should be granted for what is alleged in the notice
- 4.2 The National Planning Policy Framework has an underlying presumption in favour of sustainable development which is carried through to the Local Development Plan. The Managing Development Delivery Local Plan Policy CC01 states that planning applications that accord with the policies in the Development Plan for Wokingham Borough will be approved without delay, unless material considerations indicate otherwise.
- 4.3 The Council consider that the main issues are the following, and for why permission should not be granted for what is alleged in the notice:
- The development is located unjustifiably outside of defined settlement limits in the Wokingham countryside which is also an unsustainable location with regards to modes of transport
 - Impact on SHIN30 Public Right of Way
 - Inappropriate location for development in terms of flood risk

- Would put pressure on blue light services should an incident occur at AWE B
- Failure to demonstrate the development would not result in a harmful level of noise to the surrounding area
- Failure to demonstrate the development would not result in harmful land contamination
- Failure to demonstrate the development would not increase surface water

4.4 The Appellant has taken each of the above topics in turn. The Council will do the same.

Principle of development in the countryside - (reason (ii) for serving the notice)

4.5 The appeal site is located outside of settlement limits, within the designated countryside. As such, CP11 of the Core Strategy applies. The overarching aim of policy CP11 is to protect the separate identity of settlements and maintain the quality of the environment. Supporting paragraph 4.57 of the Core Strategy also acknowledges that development in the countryside is *'likely to lead to increased use of the private car as they are poorly served by other transport modes contrary to Policy CP6'*.

4.6 Notwithstanding this, the policy contains 7 exceptions where development in the countryside would normally be permitted:

1) It contributes to diverse and sustainable rural enterprises within the borough, or in the case of other countryside-based enterprises and activities, it contributes and/or promotes recreation in, and enjoyment of, the countryside; and

2) It does not lead to excessive encroachment or expansion of development away from the original buildings; and

3) It is contained within suitably located buildings which are appropriate for conversion, or in the case of replacement buildings would bring about environmental improvement; or

4) In the case of residential extensions, does not result in inappropriate increases in the scale, form or footprint of the original building;

5) In the case of replacement dwellings the proposal must:

- i) Bring about environmental improvements; or*
- ii) Not result in inappropriate increases in the scale, form or footprint of the original building.*

6) Essential community facilities cannot be accommodated within development limits or through the re-use/replacement of an existing building;

7) Affordable housing on rural exception sites in line with CP9.

- 4.7 The Appellant considers exceptions 1-3 most relevant to this development. It should be noted that exceptions 1-3 are reliant upon each other (through the use of the word 'and' after exceptions 1 and 2, meaning that all three are required to be satisfied).
- 4.8 The Appellant considers that the activity of shooting accords with exception 1 as shooting is a countryside-based activity. Whilst traditional shooting in the form of hunting is a countryside-based activity, the Council is not of the view that a commercialised shooting range has to be reliant on the countryside for operation, as these facilities can be found indoors, and in urban areas. Whilst the countryside is likely preferable, due to the space it provides, it has not been justified that the activity could not take place elsewhere and within settlement limits. Just being located in the countryside does not mean that the unauthorised development and uses promote recreation in the countryside.
- 4.9 The Appellant refers to paragraph 88 of the NPPF which supports businesses in rural areas, of which this is. This paragraph of the NPPF was acknowledged and discussed within the Expediency Report prepared by the Council. Paragraph 88 states:

Planning policies and decisions should enable:

a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, new buildings;

- 4.10 This unauthorised development is a rural business as paying customers attend and use the site. Whilst para 88(a) of the NPPF supports growth and expansion of all types of businesses in rural areas, this concentrates on doing this through conversion and new buildings rather than the expanding businesses and activities outside of buildings. In this case, the change of use of the Land has resulted in an encroachment into the wider countryside.
- 4.11 As the development fails to accord with exception 1, it thereby fails to accord with policy CP11 as exceptions 1, 2 and 3 are all required to be met. However, owing to the development being located substantially away from other and 'original' built form, it would also fail exception 2. Exception 3 is less relevant as this development does not involve conversion of existing buildings or replacement buildings; brand new built form has been established on the land to support the unauthorised use. Exceptions 4-7 are individually assessed exceptions and are not relevant to this development.
- 4.12 Whilst the development does not accord with any of the exceptions outlined in policy CP11, it is important to assess as to whether it would comply or conflict with the overarching aims of the policy. The aims of policy CP11 are to prevent settlement coalescence and to maintain the quality of the environment.
- 4.13 Whilst the unauthorised development does not lead to settlement coalescence, it fails to maintain the quality of the environment by way

introducing additional built form to support a use that does not have a necessary link to the countryside. Rather, it represents an unjustifiable commercial activity. With regards to whether it maintains the quality of the environment, this is a multifaceted assessment that would encompass other material considerations and so a holistic view needs to be taken.

- 4.14 Owing to the multiple policy breaches that arise as a result of this development, as reflected in the multiple grounds for taking enforcement action based upon a variety of material considerations and site constraints, the development fails to accord with the overall aim of policy CP11 in terms of maintaining the quality of the environment. Rather than maintain the quality, it results in a degradation of the quality of the environment compared to the pre-existing state of the Land that was in an agricultural use and an urbanisation of the site through the quantum and sporadic layout of built form.
- 4.15 As such, as well as the development not meeting any of the specified exceptions of policy CP11, the development also undermines the intent and overarching aims of the policy, and so is clearly unacceptable in principle and as a starting point.
- 4.16 Site sustainability
As mentioned in para 4.5, development in countryside locations are often unsustainable in terms of accessibility by transport modes that are not the private motor car and are therefore contrary to policy CP6. This is the case here, and a breach with policy CP6 was noted and referred to in reason (ii) of serving the enforcement notice.
- 4.17 The Appellant's statement does not make any assessment of the development in this regard or in relation to policy CP6. However, the Council wish to comment further on the site's sustainability, with support on this matter being provided by Wokingham Borough Council's Highways Team.

Route Quality and Environment

- 4.18 Grazeley Green Road is a classified C road subject to a national speed limit. There are no street lighting and segregated pedestrian or cycling network along the site frontage to provide safe and attractive environment for considering sustainable travel modes.
- 4.19 The nearest pavement is on the eastern side of Bloomfield Hatch Lane 650m away from the site, which does not connect to the public transport services to the north of the site. There are also no crossing points, dropped kerbs or tactile paving at this location. The site does not benefit from a direct and continuous routes for pedestrian and/or cyclists.
- 4.20 While a footpath (PRoW SHIN30) in north-south direction is passing through the site, it is unlit, unpaved and does not connect to any public transport services within acceptable walking distance.
- 4.21 Meanwhile, Mere oak Lane and Bloomfield Hatch Lane are classified C Roads subject to 40mph speed limit. Cyclists from/to the site are reliant on cycling in

the road, which the Local Transport Note 1/20 (**Appendix 1**) defines as 'mixed traffic' conditions in 'Mixed traffic' conditions with speed limits of 40mph are considered as "Provision suitable for few people and will exclude most potential users and/or have safety concerns" (See para 4.4.2 and Figure 4.1 both within Appendix 1). Protected spaces for cycling are required to be considered safe for most users.

Public Transport Accessibility

- 4.22 The nearest train station is Reading Green Park, which is circa 4.5km from the site and is within the acceptable cycling distance of 5km from the train station.
- 4.23 The nearest bus stops with available bus services during the opening hours are at MereOak Park & Ride, located off MereOak Lane. While the bus stops in both directions for Route 600/650 is considered as a good public transport service with late evening and Sunday services available, the stop is circa 1.7km from the site, exceeding the maximum walking distance to a bus stop is 400m.
- 4.24 Given the absence of street lighting and continuous and segregated footways/cycleways between the site and the bus stops/train station, those services are not considered to be safe and attractive to pedestrians / cyclists for the site users.
- 4.25 Due to the reasons set out above, the Council, including the Local Highway Authority, consider that this site will be heavily dependent on the private motor vehicle travel due to the minimal sustainable transport options or desirable conditions available for visitors to the site (staff/ customers). The facility is open 4 days a week and therefore movements to and from the site would not be insignificant. The site is therefore an unsustainable location and this a countryside development that does not accord with the objectives of policy CP6.
- 4.26 As such, overall, the development's location in the countryside is not permissible by the exceptions outlined in CP11, is unsustainable by transport modes other than the private motor car and conflicts with the overarching aims for countryside development.

Impact on SHIN30 – Public Right of Way – (reason (iii) for serving the notice)

- 4.27 SHIN30 is a designated footpath Public Right of Way (PRoW) that runs parallel to the Land subject of the enforcement notice:

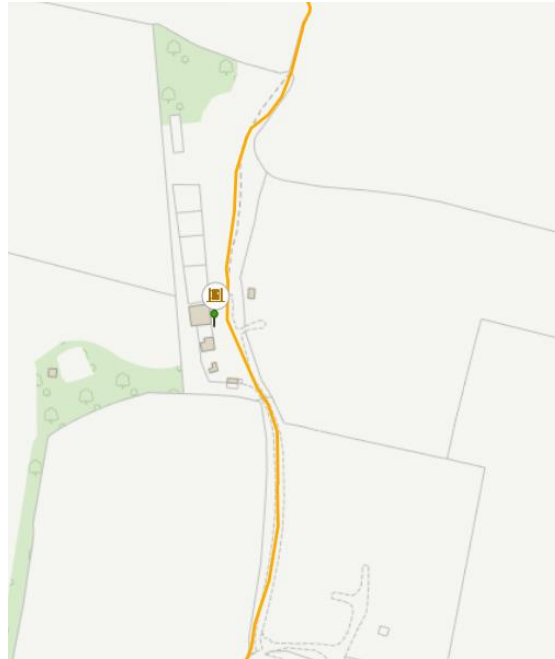


Figure 1: SHIN30 in orange, with the site pinpointed

- 4.28 'Footpath' PRowWs are for walkers only. Utilising the PRowW is the only means of accessing and exiting the site. As such, the motor vehicles of staff members and customers are all being taken down this pedestrianised PRowW. As concluded in para 4.23 of this statement, this would not be an insignificant number as most or all users of the facility will likely heavily rely upon private motor cars due to the site's unsustainable location. Utilising a pedestrian only PRowW for motor vehicles will also likely fall foul of separate highway regulations, although those are not a consideration here.
- 4.29 The Appellant has focused on the PRowW running parallel to the Land and therefore and quoted: *"the development site as depicted does not itself impact on the footpath"*. The Council do not agree, and as mentioned above, the PRowW is directly impacted by the users of the shooting range through vehicle usage.
- 4.30 The Appellant concludes by stating that *"access to the site has not resulted in the deterioration of the public right of way"*. The Council dispute this. In terms of deterioration, this needs to be considered not just in a physical sense but also the experience to users of the pedestrianised PRowW.
- 4.31 Paragraph 105 of the NPPF (2024) states that *"Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails."*
- 4.32 When considering paragraph 105 of the NPPF, which seeks to *"protect and enhance"* public rights of ways the unauthorised development fails to achieve this. It sees motor vehicles using the footpath which does not protect users of the footpath or the quality of the footpath itself. Furthermore, it therefore

contributes to the erosion of, and hinders enjoyment and experience of, the countryside, for those users of the PRow. The shooting facility is open to members of the public, 4 days a week and so vehicle movements are not inconsequential. Therefore, the development conflicts with the overarching aim of policy CP11 to maintain the quality of the environment, as well as paragraph 105 of the NPPF.

- 4.33 Lastly, in paragraph 2.14 of the Appellant's statement of case, the Appellant states that they have made improvements to the PRow and made it more accessible. No details have been provided as to what these 'improvements' considered, and it is not clear as to whether these works have been approved by the Council's Public Right of Way team. Notwithstanding this, the harm identified by using the footpath for vehicles is separate and unjustified.

Flood Risk – (reason (iv) for serving the notice)

- 4.34 The appeal site is located within flood zone 2 and 3. As such, the Environment Agency have been consulted on this appeal and provide a supporting statement in support of upholding this reason for serving the Enforcement Notice. The EA's full statement with their appendices (EA1 – EA4) can be found in **Appendix 2**. The Council understands that the Environment Agency have also sent a copy of their statement and appendices to the Inspector directly, in advance of the submission of this statement.
- 4.35 Paragraph 181 of the NPPF states that a site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. The Environment Agency have confirmed that the site is located in flood zone 3a and is classified as a 'less vulnerable' development.
- 4.36 Whilst footnote 61 states that sequential tests should not be applied to developments for change of use, this development involves operational development and engineering operations. As such, a sequential test is also required to demonstrate the development is located in the most sequentially preferred location.
- 4.37 In paragraph 2.17 of the Appellant's statement of case, it is acknowledged that the built form '*may fail the sequential test*', albeit no sequential test has been provided. The Appellant relies on their argument that the operational development is lawful through the passage of time, firstly this is incorrect as it supports/facilitates the use (*Murfitt* and *Caldwell* cases see Section 5 below) and secondly their appeal under ground (d) has been withdrawn and so this justification is not appropriate or acceptable.
- 4.38 In summary, the Environment Agency are supportive of this reason for issuing the Enforcement Notice and note that had this been a planning application, would have objected, on the following basis owing to conflict with policies CP1 of the Core Strategy, CC09 of the MDD and paragraph 181 of the NPPF:
- The Appellant has not taken a sequential approach and locate the most vulnerable development in the areas at lowest risk of flooding

- No assessment has been carried out to determine the appropriate climate change allowance in metres above ordnance datum (mAOD) applicable to the development (design flood level).
 - No floodplain compensation scheme has been submitted in relation to the increase in built footprint and land raising (bunds) that have taken place on the site within the 1% AEP plus appropriate allowance for climate change flood extent.
 - No information has been submitted to demonstrate that the development (land raising (bunds), increase in built footprint and fencing) has not resulted in any impacts to flood flows.
 - No information has been submitted to demonstrate that the buildings are designed above the design flood level.
 - No information on safe access and escape routes has been submitted.
- 4.39 Within the Environment Agency's statement, they state that if the Inspector is minded to uphold the appeal, then they request that planning conditions requiring an assessment of climate change, raised finished floor levels, appropriate flood storage compensation and resistant/resilient measures are imposed.
- 4.40 Whilst it is understood this condition is given by the Environment Agency on a without prejudice basis, the Council do not consider that imposing the recommended condition would overcome the concerns raised and furthermore would not meet the relevant tests for imposing conditions outlined in the NPPF (paragraph 57). This is because at this appeal stage, there is no evidence that the condition recommended condition could ever be complied with satisfactorily.

Impact on 'blue light' services in the event of an incident at AWE B - (reason (v) for serving the notice)

- 4.41 The appeal site is located within the Detailed Emergency Planning Zone (DEPZ) of the Atomic Weapons Establishment – Burghfield (AWE B).
- 4.42 Policy TB04 (Development in vicinity of Atomic Weapons Establishment (AWE) Burghfield) of the Wokingham Borough Adopted Managing Development Delivery Local Plan (February 2014) states:
- 1. Development will only be permitted where the applicant demonstrates that the increase in the number of people living, working, shopping and/or visiting the proposal (including at different times of the day) can be safely accommodated having regard to the needs of "Blue light" services and the emergency off-site plan for the Atomic Weapons Establishment site at Burghfield.*
- 2. The applicant will need to provide this information where the proposal exceeds the scale of development detailed below for the consultation zone as defined on the Policies Map.*

- 4.43 Therefore, as this development results in one or more additional persons working and visiting the DEPZ, the appellant is required to demonstrate how the development can be safely accommodated within the Off-Site Emergency Plan (OSEP).
- 4.44 The Appellant's statement is brief on this subject matter and in summary has not demonstrated that the development can be safely accommodated within the OSEP. A full statement from the Council's Emergency Planning Officer, supported by the West Berkshire Council's Emergency Planning Officer (as West Berkshire Council is responsible for implementing the OSEP) and the Office for Nuclear Regulation, which rebuts the Appellant's case, can be found in **Appendix 3**.
- 4.45 In summary, in the Appellant's statement of case, only paragraphs 2.23, 2.24 and 2.25 discuss the impact the development would have on the OSEP and emergency services, should an incident occur at AWE B. The Emergency Planners highlight that even small sites can still have a cumulative impact on the OSEP. Measures for self-evacuation presented by the Appellant are also assessed as not appropriate and their proposal of utilising the club house as a shelter has not been demonstrated as being achievable or that a robust site specific emergency plan is in place. As the club house is made of wood, proposing the club house as a shelter means it would have to be treated as a 'priority site' because it would not afford suitable protection for the occupants to shelter in for up to 48 hours. As such, the population sheltering in the club house would have an impact on responders which is unacceptable and unjustified.
- 4.46 Overall, the Wokingham Borough Council Emergency Planner, West Berkshire Emergency Planner and the Officer for Nuclear Regulation are maintain support of enforcement action on this matter as insufficient and inaccurate information has been provided by the appellant to demonstrate compliance with policy TB04 of the MDD and paragraph 102 of the NPPF.

Noise considerations - (reason (vi) for serving the notice)

- 4.47 Within their statement of case, the Appellant asserts that noise from air guns is low. They also state due regard should also be given to existing background noises, such as neighbouring activities, nearby railway line and the site's proximity away from residential dwellings.
- 4.48 However, no evidence, in the form a comprehensive noise assessment has been provided to assess the level of noise upon the surrounding area as a result of this development. The Council's Environmental Health team have confirmed as part of this appeal that this assessment is required. It is not possible to condition the submission of this assessment, as it needs to be demonstrated at this stage, that, in principle, that the facility is operating without substantial noise implications. If left to a planning condition, it would not meet the relevant tests for imposing conditions outlined in the NPPF (paragraph 57). This is because at this stage, there is no convincing evidence

or justification that the condition recommended could ever be complied with in the absence of any substantial evidence supporting this appeal.

- 4.49 It is worth noting that this enforcement investigation arose from a report of noise disturbance made to the Anti-Social Behaviour team within the Council (**See Appendix 4**), with several noise reports being made, and thus demonstrates that noise impacts need to be robustly and formally assessed, which has not been done by the Appellant. It also clearly demonstrates that the facility has, and may continue to, cause noise disruption to the surrounding area.

Land contamination – (reason (vii) for serving the notice)

- 4.50 The Appellant's argument in respect of this reason for serving the notice is brief. They state *"the use is not one that would create any obvious contamination of the land and the buildings and structures are equally benign in this respect. Consequently, there would be no risk of contamination from the use or buildings."*
- 4.51 As noted in the expediency report, and advised by the Council's Environmental Health officers, there may be land contamination implications from shooting and a site management plan for detailing how lead and other metals is expected and has not been provided. In the absence of such a management plan, Officers are not clear that this development is not resulting in contamination of the land or if any mitigations are required to be put in place.

Surface Water (reason (viii) for serving the notice)

- 4.52 Within the Appellant's statement of case, paragraphs 2.19 and 2.20 discuss surface water implications. The argument presented is that as the site is not identified as being at risk of surface water flooding (as confirmed on the Council's external mapping system), then the development does not pose any risk in terms of surface water flooding. The Appellant's concentration appears to be on whether surface water would pose a threat to the development itself, however the reason for serving the notice was because the development had failed to demonstrate that it would not result in increased surface water. This has failed to be recognised or considered by the Appellant.
- 4.53 The appeal contains no information on drainage or demonstration that it would not result in surface water accumulating. This is of importance given the scale of development above and beyond the former state of the land (an open agricultural field).
- 4.54 The development therefore remains in conflict with policy CC10 of the MDD Local Plan and section 14 of the NPPF.

5.0 APPELLANT'S GROUNDS OF APPEAL – GROUND (f)

- 5.1 **Ground (f)** – That the steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome objections.

- 5.2 The Appellant's argument under this ground is brief and reliant upon the operational development being immune from enforcement action. However, as discussed, the Appellant's appeal under ground (d) has been withdrawn.
- 5.3 As a number of the steps for compliance relate to the operational development/ engineering operation, which the Appellant considers to be lawful and therefore claims no enforcement action, the steps required are excessive and steps ii – vi are unreasonable.
- 5.4 The Council can confirm that no planning permission or certificate of lawfulness have been identified for the alleged development. There is also no evidence to conclude that the material change of use of the land is immune from enforcement action by way a ten year period elapsing since the date of the breach.
- 5.5 With regards to the operational development, it needs to be determined if the Murfitt principle (Murfitt v Secretary of State for the Environment (1980))¹ is applicable. Within this case, it clarified that operational development can be removed when enforcing against an unlawful change of use, even if the four-year immunity period for operational development has expired. Both the change of use and operational development would be subject to a ten-year immunity period.
- 5.6 The Murfitt principle has been refined in recent years by case law, especially in the Court of Appeal judgment of Secretary of State for Levelling-up, Housing and Communities v Caldwell [2024] EWCA Civ 467². The Court decided that where the operational development had itself brought about the change of use, the Murfitt principle is not engaged.
- 5.7 Within Appendix 1 of the Appellant's statement of case it states that the shooting range was established in 2018. This is consistent with the Gravelley Bridge Shooting Association website (<https://www.gbsa.co.uk/about-gbarc>) which also states that the facility was established in 2018. This website was declared as being the website for the association within the completed Planning Contravention Notice (PCN).
- 5.8 Appendix 1 of the Appellant's statement of case then goes on to state that the operational development was added to the site in 2019/2020. As such, the change of use of the Land occurred first and the operational development did not itself bring about the change of use.
- 5.9 As such, the Murfitt principle is engaged and as such, it is not relevant to establish if the operational development is immune by way of a four - year period elapsing since its substantial completion. This is because the operational development should not be considered separately from the change of use, as the operational development has not itself brought about the change of use. As

¹ Murfitt v Secretary of State for the Environment and East Cambridgeshire DC (1980)

² Secretary of State for Levelling Up, Housing and Communities v Caldwell & Anor [2024] EWCA Civ 467 (2024)

such, immunity for the parts of the development considered in isolation should not be claimed where it was carried out in order to facilitate the unlawful change of use, which in itself had not acquired immunity.

- 5.10 Therefore, all steps for compliance with the Enforcement Notice are reasonable and relate to unauthorised development, as the entirety of the development is subject to enforcement action and none is immune by way of a ten-year period. The harms identified as a result of this development do not outweigh the benefits, and therefore the steps for compliance are not excessive, but rather are necessary and justifiable.

6.0 PLANNING BALANCE AND CONCLUSION

- 6.1 The heart of development is ensuring it is sustainable. Paragraph 8 of the NPPF highlights the three pillars of sustainability; social, economic and environmental. There are some social and economic benefits of the unauthorised development.
- 6.2 The Council fully understand and appreciate the positive social benefits the shooting facility brings to its members and those in the community. These benefits include socialising as well as developing the shooting skills of those who partake in shooting activities. The income generated from the facility could also contribute to the local economy and therefore have limited economic benefits.
- 6.3 However, the Land is in a sensitive location with a number of complicated constraints. The cumulative impact of the harm that this development has resulted in, and the way the land has been commercialised for paying customers to participate in the use, is causing a degradation and urbanisation of the countryside. The use of the pedestrian only footpath (PRoW) for motor vehicles is a clear conflict and again results in an urbanisation of the site and potential conflict with pedestrian users and their enjoyment of the footpath. Given the site's unsustainable location, those attending the site heavily rely on private vehicles to attend, meaning the public right of way is likely extensively used by staff and customers in their vehicles when in operation.
- 6.4 Given the urbanisation of the Land as a result of the change of use, operational development and engineering operation, it fails to maintain the overarching aim of policy CP11 which is to maintain the quality of the environment. As such, the principle of the unauthorised development is unacceptable.
- 6.5 The change of use and business operation also poses a number of risks to site users owing to the site being within Flood Zone 3 and within the AWE DEPZ.
- 6.6 Taking the above into account, it highlights there are number of social and environmental disbenefits of the scheme that weigh against the social and economic benefits.
- 6.7 To conclude, there are several isolated elements of high level harm and substantial policy conflict. The fact that there is multiple harms and policy

conflicts in relation to material considerations exacerbates the unsuitable location for the entirety of the unauthorised development and the benefits do not outweigh these harms and so planning permission should not be granted for what is alleged in the notice.

- 6.8 However, if the Inspector considers permission should be granted then section 7 of this statement contains suggested planning conditions.
- 6.9 The Council have also demonstrated that the steps for compliance within the Enforcement Notice are reasonable and necessary, and not excessive. The Murfitt Principle applies, thus the Appellant's argument that the steps for compliance exceed what is necessary due to the operational development being immune, is disputed and unjustified.
- 6.10 The Council respectfully request that the appeal is dismissed and the Enforcement Notice upheld as served.

7.0 SUGGESTED PLANNING CONDIITONS

This is not an exhaustive list as matters such as Flood Risk, Contamination and location in the DEPZ/ impact on the Off-Site Emergency Plan would need to be considered but in the Council's view these would be inappropriate and/or would not meet the 6 tests within the NPPF (para 57).

1. Approved Plans

The development hereby approved shall be carried out in accordance with the following plans:

- P9 – Location Plan
- P8 – Block Plan
- P7- Site Plan
- P6 – Storage & WC Elevations
- P5 – Storage & WC Roof Plan
- P4 – Storage & WC Plan
- P3 – Lodge Elevations
- P2 - Lodge Roof Plan
- P1 – Lodge Floor Plan

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The development shall be retained in accordance with the plans hereby approved.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the application form and associated details hereby approved.

2. Hours of operation

The use hereby permitted shall not operate other than between the hours of:

14:00 – 20:00 (Thursday)

10:00 – 14:00 (Friday)

10:00 – 16:00 (Saturday and Sunday)

Reason: To restrict the level of activity in the countryside and preserve the amenity of the surrounding area in accordance with polices CP3 and CP11 of the Core Strategy.

8.0 APPENDICIES

To be sent as separate documents.

Appendix 1 – Local Transport Note 1/20 – Cycle Infrastructure Design,
Department for Transport

Appendix 2 – Statement from the Environment Agency which itself contains
appendices EA1, EA2, EA3 and EA4

Appendix 3 – Statement from Wokingham Borough Council Emergency
Planning Officer, which was prepared in conjunction with the West Berkshire
Council Emergency Planning Officer and the Office for Nuclear Regulation

Appendix 4 – Email chain with Wokingham Borough Council Anti-Social
Behaviour Team