



## **WOKINGHAM BOROUGH COUNCIL**

### **Statement by the Local Planning Authority**

|                                    |                                                                                             |
|------------------------------------|---------------------------------------------------------------------------------------------|
| Appellant                          | Mr E Smith                                                                                  |
| Site                               | Furze Farm, Dunt Avenue, Hurst<br>Wokingham, RG10 0SY                                       |
| Local Planning Authority Reference | RFS/2024/089971                                                                             |
| PINS Reference                     | APP/X0360/C/25/3366608<br>Linked Cases:<br>APP/X0360/C/25/3366609<br>APP/X0360/W/25/3363774 |

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## **Appendices:**

Appendix One: Enforcement Notice (RFS/2024/089971)

Appendix Two: Expediency Report (RFS/2024/089971)

Appendix Three: 28 Day Letter – Dated 18<sup>th</sup> December 2024

Appendix Four: Officer Report Relating to Planning Application 250109

Appendix Five: Decision Notice for Planning Application 250109

Appendix Six: Decision Notice for Planning Application 43203 & Approved Site Plan

Appendix Seven: Enforcement Notice for The Vale

Appendix Eight: Appeal Decision for The Vale

Appendix Nine: Correspondence between Case Officer & Agent

## 1 Introduction

- 1.1 This appeal statement relates to an enforcement notice (**Appendix 1**). The allegation comprises *“Without planning permission, the material change of use of land and building to a vehicle storage (including caravans) and sales business”* at Furze Farm, Dunt Avenue, Hurst Wokingham, RG10 0SY.
- 1.2 An enforcement investigation was opened on 10<sup>th</sup> December 2024 (reference: RFS/2024/089971) and a site visit was undertaken on 18<sup>th</sup> December 2024. The site was being investigated for the following breaches of planning control:
- (a) sports massage & therapy
  - (b) storage of cars
  - (c) storage of a touring caravan
  - (d) The change of use of land to a car sales business and the erection of a building and formation of hardstanding.
- 1.3 The Council wrote to the landowner on 18<sup>th</sup> December 2024 highlighting the fact that a number of breaches of planning control had occurred and requested the unauthorised uses cease and the operational development removed from the land (**See Appendix 3**).
- 1.4 As highlighted in the Expediency Report (**Appendix 2**), breach (a) was regularised through the approval of planning application 250055 on 6<sup>th</sup> March 2025 for *“Application to vary condition 3 and 6 of planning consent 39571 for the change of use of redundant agricultural building to B1 use (Design Studio). Condition 3 and 6 refers to use Class and vehicle parking spaces and the variation is to change the use Class limitation of condition 3 to use Class E and to remove the requirement to formally mark out parking spaces for condition 6 (retrospective)”*.
- 1.5 Breach (b) is considered to related to breach (d) which forms part of this report. Breach (c) has not been regularised, nor has any application been forthcoming and forms part of this report.
- 1.6 On 19 March 2025 planning application reference 250109 for “Full application for proposed change of use of the existing building and associated land to a car sales garage. (Retrospective).” was refused. This application was submitted to regularise breach (d) and incidentally breach (b). A copy of the Officers Report can be found at **Appendix 4** and the Decision Notice at **Appendix 5**. This decision is the subject of a separate but linked appeal (APP/X0360/W/25/3363774).

1.7 The Enforcement Notice subject to this appeal was served on 14<sup>th</sup> May 2025. This appeal is proceeding on the following grounds:

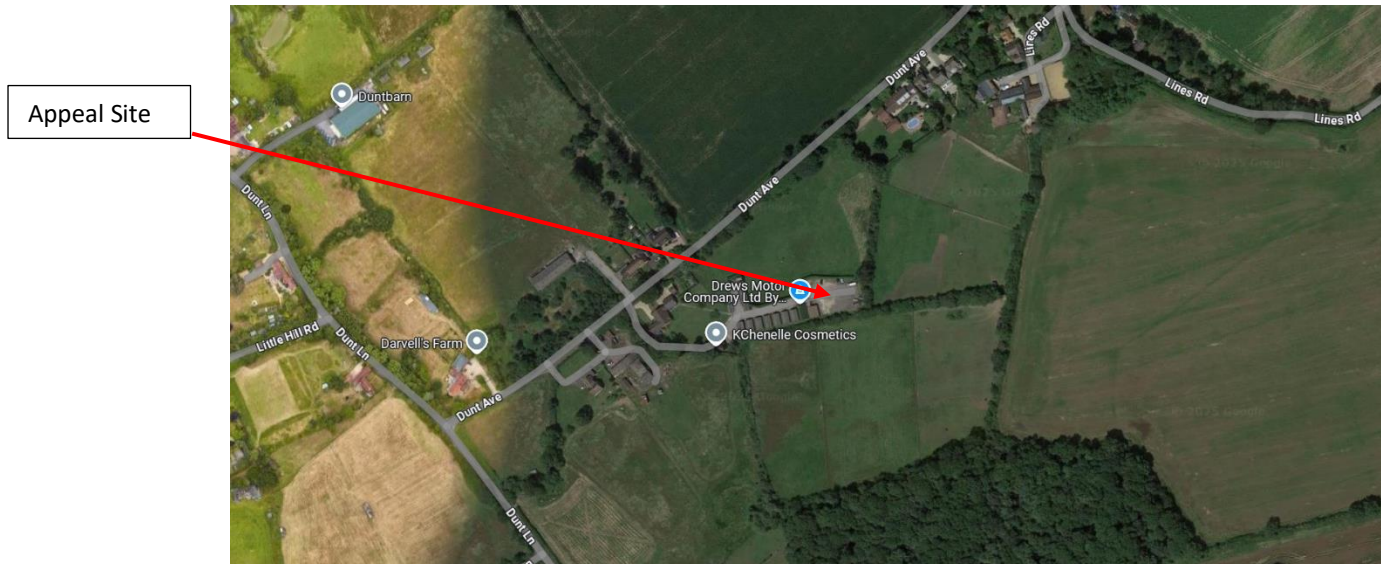
- Ground (b) That the breach of control alleged in the enforcement notice has not occurred as a matter of fact;
- Ground (f) The steps required to comply with the requirements of the notice are excessive and lesser steps could be taken to remedy the injury to amenity;
- Ground (g) The period to comply with the notice falls short of what should reasonably be allowed.

1.8 Despite being applied for, the Inspector notified the Appellant that Ground (a) is barred from this appeal because the notice was issued during the time allowed for determining a related application (i.e. 250055). Accordingly, the planning merits of the development is not relevant to this appeal but have been discussed through the linked appeal (APP/X0360/W/25/3363774).

1.9 Before serving the notice, the Council engaged in pro-active discussions with the owner but has been unsuccessful in negotiating any way forward to remedy the outstanding breaches of planning control at the site.

## 2 The Appeal Site:

- 2.1 Furze Farm comprises a complex of former agricultural buildings on former agricultural land. The site is located on the southeastern side of Dunt Avenue and is within the designated countryside of Hurst.



- 2.2 The character of the area is entirely rural. With the exclusion of the few dwellings that are scattered along Dunt Avenue, the wider landscape is dominated by open fields, with very little built form, a symptom of its countryside setting.
- 2.3 The identified land in the enforcement notice has been the subject to a change of use of land to a car sales business and the erection of a building and formation of hardstanding. It has also been used for the stationing of a caravan.
- 2.4 The site has a shared access from Dunt Avenue and there is a physical hedge boundary surrounding the site separating it from the adjoining fields and the garden of The Furze residential dwelling.

### 3 Relevant Planning History

3.1 The relevant planning history is stated below:

| PLANNING HISTORY |                                                                                                                                  |                                            |
|------------------|----------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| Application No.  | Description                                                                                                                      | Decision & Date                            |
| 250109           | Full application for proposed change of use of the existing building and associated land to a car sales garage. (Retrospective). | Refused:<br>March 2025<br>(ongoing appeal) |
| 43203            | Change of use from poultry houses to light industrial (B1) use.                                                                  | Approved:<br>December 1994                 |

3.2 A condition was imposed on the 1994 permission which sought to restrict any storage within the open areas of the site, which was imposed in the interest of amenity. The current retrospective development conflicts with the purpose of this condition, as it now seeks permission for the storage of a large number of vehicles within the aforementioned open areas of the site. The Decision Notice and approved site plan are attached at **Appendix 6**.

#### **4 The Councils Case: Ground (b): that those matters have not occurred.**

- 4.1 In relation to ground b, the appellant argues two points at paragraphs 5.26 & 5.27 of their statement:
- 4.2 A) that there is no caravan storage and relates sales business on the land.
- 4.3 B) that the business does not operate on all of the identified land. The appellant has not stated what area within the notice is not used by the business therefore the LPA cannot easily respond to this point.

##### Storage of Caravan

- 4.4 In relation to the former matter, a site visit undertaken on 18/12/2024 demonstrates the presence of the caravan on the specified land. This also supported by aerial imagery, all of which are shown below.

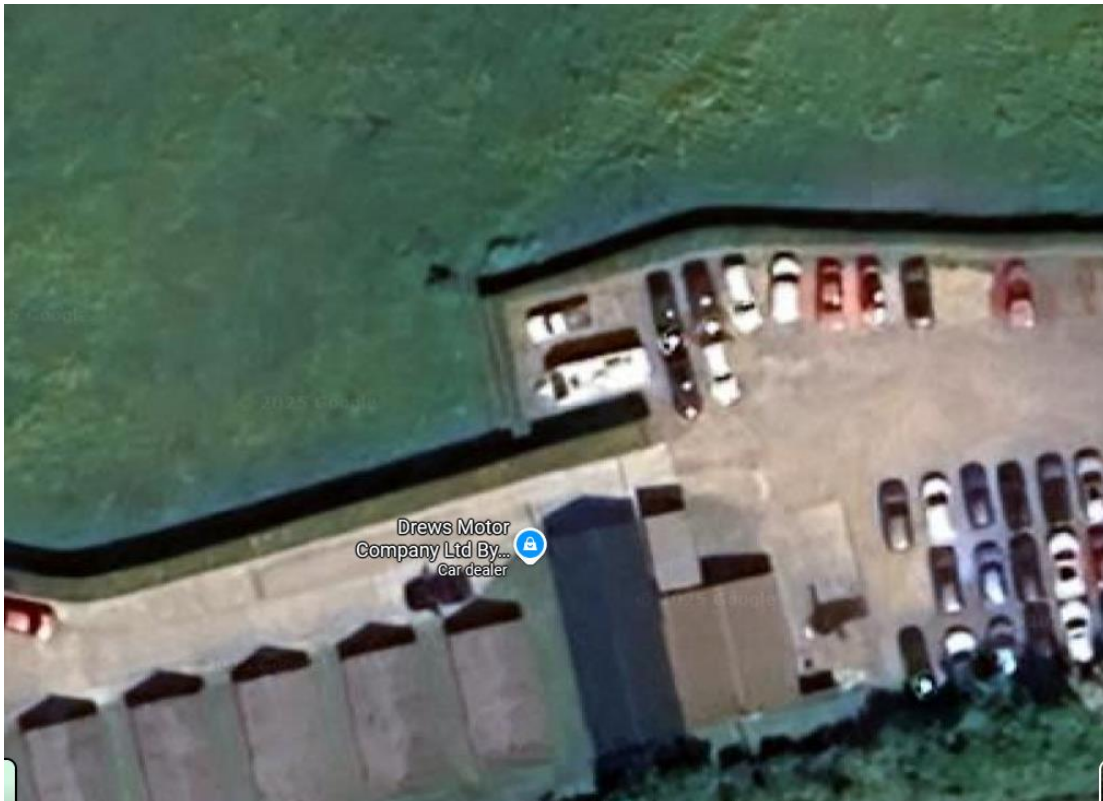
Site Visit Photos (18/12/2024):







Aerial Image of Caravan (Google Maps, 2025):



- 4.5 Further to the evidence provided through the photos above, a phone call between the enforcement case officer and the landowner took place on 20/12/2024, whereby the owner confirmed that the caravan belonged to a tenant and was not occupied but stored. The content of this telephone call was logged through a subsequent email to the landowner, in which the case officer advised in writing that the stationing of the caravan constitutes outdoor storage and needs to be removed.
- 4.6 Further correspondence is available of the LPA requesting information on whether the caravan had been removed, such as a letter dated 25/03/2025.
- 4.7 In summary, the correspondence relating to the storage of the caravan is as follows:

18/12/2024:

- The LPA sent a letter to the owner of the site requesting that the caravan be removed from the site within 28 days.

20/12/2024:

- Phone call between case officer and owner, with the owner confirming that the caravan belonged to a tenant and was not occupied but stored.

25/03/2025:

- Following the refusal of planning application 250109, a letter was sent by the LPA to the owner requesting information as to whether the caravan had been removed.

27/03/2025:

- A follow up email to the letter sent on 25/03/2025, requesting an update on the outstanding matters raised, including whether the caravan had been removed.

- 4.8 The responses to these letters from the Agent did not at any point state there was no caravan on the Land. Generally, the arguments of the planning merits of retaining a caravan in this location were argued. The correspondence listed above, and Agent responses are appended at **Appendix 9**.
- 4.9 As stated above, at no point was it mentioned by the Appellant that there was no caravan stored on the land. A separate site visit was undertaken on 11/02/2025, through the assessment of planning application 250109, which demonstrated that the caravan was still in situ. This can be seen in the photograph below.

Site Visit Photos (11/02/2025):



- 4.10 In accordance with all the above, it is considered that the appellants claims that there are no caravans stored on the identified land is fundamentally incorrect and have not been in any way substantiated.
- 4.11 In terms of the caravan sales, the breach relates to “*vehicle storage (including caravans) and sales business*”. This does not directly refer to caravan sales as the LPA were aware that the only caravan on the site was stored for a tenant rather than for sale.

### Extent of Operation

- 4.12 With regard to the extent of the operation, the appellant in paragraph 5.27 of their statement argues that this does not take place on all of the land in the enforcement notice plan. However, the appellant has not provided any information or identified which parts of the land the car sales does not take place. From the associated site visits and aerial imagery, it is clear that the majority of land is used for the storage of vehicles and some parts will be required for manoeuvring vehicles and access to the site.
- 4.13 An aerial image has been appended below to show where the car storage is taking place.

Aerial Image of Site (Google Maps, 2025):



- 5 Ground (f): that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.**
- 5.1 In relation to ground f, the appellant argues that lesser steps (keeping the hardstanding, lighting and caravan) could be taken to remedy the injury to amenity. In this respect, it should be noted that the notice was served to remedy the breach, not remedy the injury to amenity. This is stated within reason (f) of the notice.

- 5.2 The appellant seeks to justify this at paragraph 5.29 of their statement by drawing comparisons between the stationing of the caravan at the appeal site with an application that was approved by the LPA in 2023 for the storage of 20 motorhomes and caravans in another area of the Borough. The LPA fail to see how this is of relevance. The planning merits of retaining parts of the unauthorised development are not relevant to the steps required to remedy the breach.
- 5.3 The appellant does not argue that the steps are unreasonable or exceed what is necessary to remedy the breach.
- 5.4 With regard to the hardstanding, Lawfulness relates to a Ground (d) appeal and there is no ground (d) appeal relevant to this appeal. The expediency report discusses the LPA's view on the hardstanding when considering which parts that action can be taken on. It is not the intention of this statement to reiterate the contents of the Expediency Report.
- 5.5 Notwithstanding the requirements of the hardstanding, the lighting remaining in situ without permission would breach condition 4 of the 1994 planning permission for the original industrial units (ref: 43203).
- 5.6 The steps required are the minimum required to remedy the breach.
- 5.7 Ground (g): that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.**
- 5.8 The Appellant argues that the LPA has pursued the operator of the car sales business in a manner which is unreasonable and tantamount to harassment. It is noted that this is acknowledgement from the Appellant states that the car sales business is taking place at the site (in relation to Ground (b)).
- 5.9 The operator is fully aware of the statutory requirements relating to planning permission and has a documented history of non-compliance. Specifically, the operator was previously subject to an enforcement notice on a different site for conducting the same unauthorised car sales operation, which is detailed in **Appendix 7**. The subsequent appeal against this enforcement action was dismissed by the Planning Inspectorate, as shown in **Appendix 8**, thereby reinforcing the legitimacy of the Council's original decision. Despite this precedent and clear guidance, the operator has demonstrated a continued disregard for planning control by persisting in the same unauthorised use at the current site without securing the necessary permissions. Moreover, the operator failed to comply with the requirements of the original enforcement notice within the prescribed 12-month period, which constitutes a criminal offence. The Council was extremely forbearing and did not pursue prosecution on this occasion as compliance was eventually secured.

- 5.10 In a previous case, the Planning Inspector acknowledged that the Council's standard 3-month compliance period was insufficient, referencing the guidance provided in Paragraph 83 of the Framework, which stresses the importance of reasonableness and proportionality in enforcement action. As a result, and in light of the operational nature of the breach involving an established car sales business, a longer timescale was deemed more appropriate. Therefore, the proposed 6-month compliance period in this case is considered wholly reasonable and proportionate. Any timescale longer than 6 months would risk unnecessarily prolonging the harm.
- 5.11 The LPA cannot permit this persistent and harmful breach of planning control to continue unchallenged, particularly given the operator's history of non-compliance and the precedent it may set for similar unauthorised uses elsewhere in the borough.

## **6 Conclusion:**

- 6.1 The unauthorised development and use is considered to be unacceptable for the reasons set out in this statement and the statement provided within the linked appeal (APP/X0360/W/25/3363774).
- 6.2 The Council considered that the breach of planning control has occurred which has not become lawful through the passage of time or immune from enforcement action for any other reason and that the steps required by the notice and timescales for compliance are wholly reasonable. As such, the Council respectfully asks that the appeal is dismissed, and the enforcement notice is upheld as served.