



Address: The Furze, Dunt Avenue, Hurst Wokingham RG10 0SY

**Expediency Report
RFS/2024/089971**

1.0 Background Information

The site has the benefit of a consent granted under planning reference 43203 dated 19 December 1994 (the "1994 Permission") for the change of use from poultry houses to light industrial use within use class B1. The 1994 Permission was granted subject to conditions.

An enforcement investigation was opened on 10 December 2024 following an allegation of an unauthorised car sales business (ref: RFS/2024/089971). A site visit was undertaken on 18 December 2024. During the site visit further breaches of planning control were observed and the allegation was amended to the following:

Without planning permission, the use of the Land for:

- (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

Breach (a) was regularised through the approval of planning application 250055 on 6 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)*"

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.

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). A copy of the Officers Report can be found at **Appendix 1.**

In addition to the use, breach (d) also comprises a building and hardstanding. It was confirmed that the operational development relating to the erection of a building was lawful as it can be seen on aerial imagery for at least the last four years. No use has yet been determined.

The hardstanding formed in 2013 is also agreed as lawful through the passage of time. The hardstanding formed in 2017 is unlawful as this would depend on the purpose for which it was formed and no details have been forthcoming from the owner nor has any lawful use been identified from the aerial imagery. This area is shown on the most recently approved permission (being the 1994 Permission) as “*manure storage compound*”. The aerial imagery can be seen below.

1.1.2010	
6.6.2013	
25.3.2017	

This expediency report relates to:

- *Unauthorised car sales use*

- *Unauthorised storage of a caravan*
- *Unauthorised hardstanding*

This matter has not previously been considered by the Planning Committee.

The Land is contained within Land Registry Title BK441732. It is owned by and under the control of Edward James Smith & Betty Churchill Smith. It is understood that part of the site for car sales is leased to Mr David Drew of Drew's Motor Vehicles (DREWS MOTOR CO. LIMITED Company number 05158057).

It is noted that Drew's Motor Vehicles car sales maintenance and storage business was subject of an enforcement notice on another site within the Parish of Hurst which was upheld by the Inspector following a public inquiry - APP/X0360/C/22/3294935 the decision is dated May 2023. The compliance date was 24 May 2024. Mr Drew complied with the Enforcement Notice some time between Officer site visits on 22.7.2024 (non-compliance observed and prosecution warning letter sent) and 23.10.2024 (compliance observed) and it is understood that he moved to The Furze during that time.

2.0 The site and surroundings:

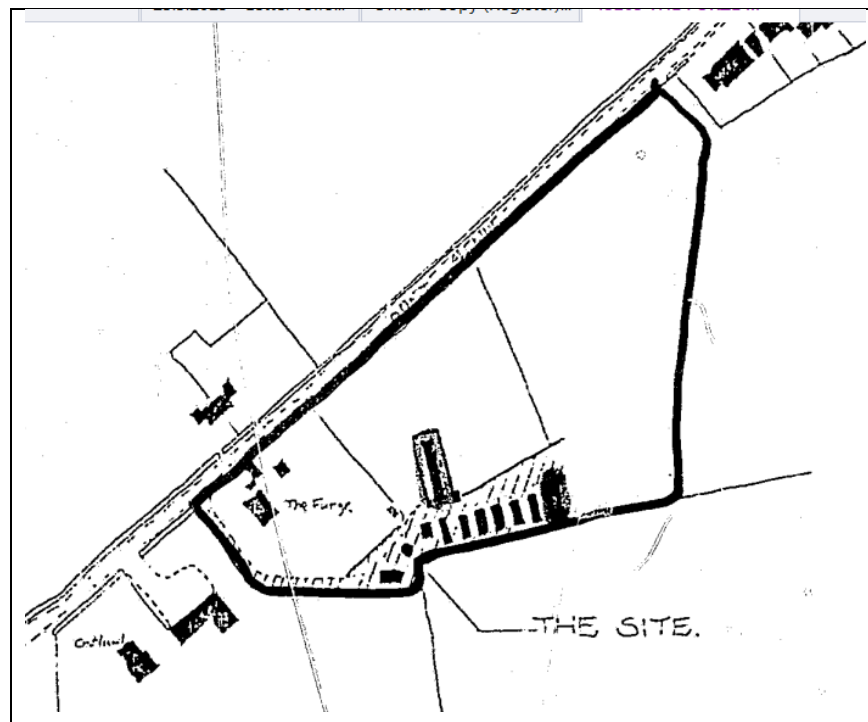
The Furze is a dwelling on Dunt Lane.

The land to the rear of the Furze was formerly agricultural land. It benefits from a planning permission (ref: 43203) for a change of use from poultry houses to light industrial (B1) Use with restrictive conditions relating to:

- Hours of operation of machinery
- Outdoor storage
- External lighting
- Permitted development

The Decision Notice is attached at **Appendix 2**.

Figure 1: Layout Plan 43203



3.0 The Planning Unit

In the case of *Burdle v Secretary of State for the Environment* [1972] 1 WLR 1207 Bridge J took the opportunity to set out clear criteria for determining the correct planning unit. He identified 3 principles for determining the correct planning unit, which are set out below:

- (a) Whenever it is possible to recognise a single main purpose of the occupier's use of his land to which secondary activities are incidental or ancillary, the whole unit of occupation is considered.
- (b) Even though the occupier carries on a variety of activities and it is not possible to say that one is incidental or ancillary to another, the entire unit of occupation should be considered.
- (c) Where there are two or more physically separate and distinct uses, occupied as a single unit, but for substantially different and unrelated purposes, each area used for a different main purpose (together with its incidental and ancillary activities) ought to be considered a separate planning unit.

Based on the Burdle Tests, the planning unit is identified below in **Figure 3.0**

Figure 3.0 – Planning Unit



Although the site is a single planning unit, it is considered to be in multiple physically distinct composite uses. It is not a mixed use as each activity is taking place within a specific area. 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.

The lawful use within use class B1 which was approved under permission 1994 Permission is carried out within the existing buildings only. The unlawful car sales, maintenance and storage business is taking place within a single building at the site and outdoors on unlawfully erected hard standing at the rear of the site. This only on part of the site forming the 1994 permission.

4.0 Alleged breach of planning control

S55 of the Town and Country Planning Act 1990 (as amended) defines “development” in two strands - “the carrying out of building, engineering, mining or other operations, in, on, over or under land” or “the making of any material change in the use of any buildings or other land”.

It is recommended that an enforcement notice is served in respect of the unauthorised development.

In this case the breaches of planning control consist of:

Without planning permission the material change of use of land and building to a vehicle storage (including caravans) and sales business¹

5.0 Relevant Planning History

See Officer’s Report ref: 250109 at **Appendix 1**.

6.0 Consultations

¹ The allegation relates to the area of the site where the breach is taking place, not the entire planning unit.

Consultations were undertaken for application 250109 in relation to the unauthorised business use. See attached Officer Report 250109 for full details of consultation responses.

No consultation has been undertaken in relation to the storage use.

7.0 Material Planning policies

National Policy	National Planning Policy Framework (NPPF) National Planning Policy Guidance (NPPG)
Core Strategy (CS)	CP1 – Sustainable Development CP3 – General Principles for Development CP6 – Managing Travel Demand CP7 – Biodiversity CP9 – Scale and Location of Development Proposals CP11 – Proposals Outside Development Limits CP15 – Employment Development
MDD Local Plan (MDD)	CC01 – Presumption in Favour of Sustainable Development CC02 – Development Limits CC03 – Green Infrastructure, Trees and Landscaping CC06 – Noise CC07 – Parking TB21 – Landscape Character
Joint Minerals and Waste Plan (JMWP)	DM1 – Sustainable development DM5 – Protection of the Countryside DM15 – Site History
Other	Borough Design Guide Supplementary Planning Document

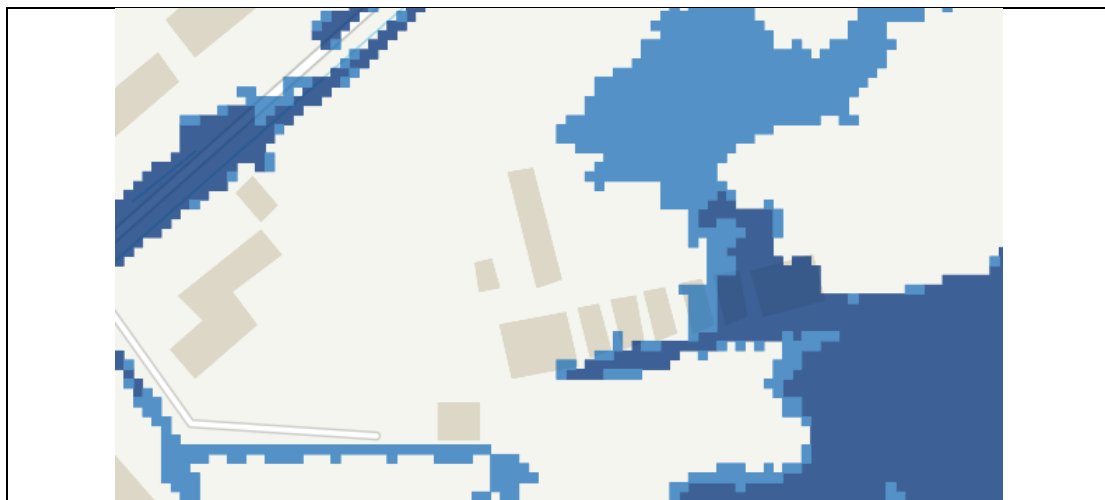
8.0 Main Planning Issues

The unauthorised car sales and storage use constitute an inappropriate and unsustainable form of development in an unsustainable location and introduces a commercial use and associated development such as hardstanding as well as outdoor storage in a rural location outside any defined settlement boundary. This fails to maintain the quality of the environment and is detrimental to the character and appearance of the countryside. The unauthorised development has a harmful urbanising effect in this countryside location due to the spread of development and encroachment away from existing buildings.

The use has been considered within refused application 250109.

Notwithstanding the refused application an update is required to the Officer's report as The Environment Agency's (EA) Flood Maps were updated on 25 March 2025. This update was after application 250109 was determined. The below provides an update to the Officer's Report in relation to Flood Risk.

Part of the site is within Flood Zone 3. The EA floodmap extract can be seen below.



Paragraph 170 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

Policy CP1 of the Core Strategy, amongst other matters, seeks to ensure proposals have provision of adequate drainage and avoid increasing risks of or from all forms of flooding (including from groundwater).

Policy CC09 states all sources of flood risk, including historic flooding, must be taken into account at all stages and to the appropriate degree at all levels in the planning application to avoid inappropriate development in areas at risk of flooding. Point 2 of Policy CC09 states development proposals in Flood Zone 2 and 3 must take into account the vulnerability of development.

The Planning Practice Guidance states that water-compatible and less vulnerable uses of land are appropriate in Flood Zone 3a and only water-compatible uses and essential infrastructure in Flood Zone 3b.

Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. No site-specific flood risk assessment to demonstrate that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk) has been provided therefore the sequential test must be applied (paragraph 175). The LPA considers that there are reasonable opportunities for available sites within the Borough in areas of lesser risk and the development could be reasonably located in zones with lower flooding probability. As the development therefore fails the Sequential Test, there is no requirement to evaluate under the Exception Test.

Given the immediate flood risk of the development and the lack of sufficient evidence to outline the necessity and suitability of its use, the developments are clearly contrary to policy CP1 of the Core Strategy Policies CC09 and CC10 of the Managing Development Delivery Local Plan and the guidance outlined in the NPPF.

Hardstanding:

An area of hardstanding was formed in 2017 (according to aerial imagery Google Earth Pro) within a former manure storage area. It is not clear from the imagery the purpose for which the hardstanding was formed nor has the owner provided any information as to the use of the hardstanding despite requests.

In the 2017 aerial imagery the hardstanding is empty. In the 2018 aerial imagery the hardstanding appears to have two vehicles parked/stored. The 2020 aerial imagery appears to show two vehicles being stored. Similarly, the 2021 and 2022 images show two items stored, it is not clear whether these are vehicles or not. On this basis, it is understood that the hardstanding was formed for a storage use which has not been continuous for 10 years prior to this report and can therefore be enforced against.

The hardstanding is integral to the unlawful storage use. This use has not existed on the land for the requisite lawful time period of 10 years to achieve immunity and therefore can be enforced against.

The limitations of the “Murfitt principle” [allowing for the removal of items which facilitate the material change of use of the land, even when those items are immune or are not, themselves] are further established in *Kestrel Hydro v Secretary of State for Communities and Local Government* [2016] EWCA Civ 784. *Kestrel Hydro* made the distinction between works which were secondary, ancillary or associated with a change of use (which a notice can require to be removed) and those which were fundamental to or causative of the change of use (which it cannot) because it would be contrary to the statutory scheme of Section 171B. This was confirmed further by *Secretary of State for Levelling-up, Housing and Communities v Caldwell* [2024] EWCA Civ 467. Whether that limitation of the Murfitt principle is reached is a matter of fact and degree.

The hardstanding is considered to be associated with the change of use, however the change of use (storage of vehicles & car sales use) could occur without the hardstanding in situ therefore the hardstanding facilitates the change of use of land.

Breach of conditions:

Condition 3 and condition 4 of the 1994 Permission state::

No materials, goods or items of any sort associated with the use of the site shall be deposited or stored in the open on the site.

No external lighting of any type shall be provided without the prior written permission of the District Planning Authority.

On a site visit on 11.2.2025 outdoor storage of vehicles and external lighting on the buildings were observed:

18.12.2025	11.2.2025
	

Many buildings on the site had floodlights attached and a caravan and cars were stored outside the buildings.

The 1994 Permission was granted subject to conditions in order to reduce the impact of the development on this countryside location and the ongoing breaches of condition directly conflict with that reasoning.

The non-compliance with Conditions 3 and 4 amounts to unauthorised development which is considered to be inappropriate because it causes harm to the character and appearance of area as the site is located within a Countryside location. The unauthorised development is therefore unacceptable and contrary to policies CP1, CP3 and CP11 and paragraph 89 of the NPPF.

The breach of condition has not specifically been included in the notice as this notice is being served on part of the planning unit only and it is likely that

ceasing the unauthorised use will remedy these breaches as the outdoor storage and lighting is associated with the unauthorised use. However, the Council reserved the right to serve a breach of conditions notice or breach of conditions enforcement notice at a later date if it is expedient to do so.

9.0 Summary of negotiations with transgressors

- 18.12.2024 – 28 day letter sent to owner, Drews Motor Company, Ocean Sport's Therapy
- 20.12.2024 – Telephone conversation with Owner confirming he will get an Agent
- 20.12.2024 – Officer email to Mr Smith summarising the telephone conversation
- 2.1.2025 – email from David Auger FRICS Martin & Pole Chartered Surveyors confirming Mark Leedale has been recommended as Agent
- 3.1.2025 – Letter from Mark Leedale confirming receipt and advising planning applications will be submitted
- 6.1.2025 – Officer response to David Auger advising they had received communication from Mark Leedale
- 6.1.2025 – Acknowledgement email from Officer to Mark Leedale
- 12.1.2025 – Email from Mark Leedale confirming application has been submitted for Ocean Sport's Therapy
- 13.1.2025 – Acknowledgment email from Officer to Mark Leedale
- 13.1.2025 – Email from Mr Drew advising that he is a tenant and Mr Smith is his landlord and he does not know what to do.
- 14.1.2025 – Officer email to Mr Drew advising to cease the use within 28 days.
- 14.1.2025 – Officer email to Mr Smith requesting the case sales use to cease within 28 days and request intentions within 7 days.
- 15.1.2025 – Letter from Mark Leedale confirming that an application will be submitted for the car sales use and expresses concern that Officers suggested the development is considered contrary to policy.
- 15.1.2025 – Officers providing further clarification and response to queries raised in Mark Leedale's letter.
- 15.1.2025 – Letter from Mark Leedale raising queries relating to harm arising from the development and criticizing the Officer's approach.
- 16.1.2025 – Confirmation from Mark Leedale that the application for the car sales and maintenance business has been submitted.
- 17.1.2025 – Officer response to queries raised by Agent on 15.1.2025
- 17.1.2025 – Response from Mark Leedale advising his queries have not been answered.
- 27.1.2025 – Application 250109 validated
- 19.3.2025– Application 250109 refused
- 25.3.2025 – Letter sent to Agent, Drew's Motor Vechiles and Mr Smith advising the car sales use must cease within 28 days and requesting details of how they intend to proceed with all other outstanding matters.
- 25.3.2025 – Letter received from Mark Leedale advising application 250109 would be appealed.

12.0 Cost Benefit Analysis

N/A

13.0 Human Rights and Public Sector Equality Duty

The following articles of the Human Rights Act 1998 are considered to be relevant in this case:

Part 1 Article 8 - the right to respect for private and family life, home and personal correspondence.

Part 2 Article 1 of the First Protocol - the right to protection of property, including peaceful enjoyment of possessions.

Both of these rights could be outweighed when considering the general interest and the rights and freedoms of others particularly the Council's duty as a Local Planning Authority to uphold the integrity of the planning system. The erection of the fencing as outlined in this report is of small scale and unobtrusive and any harm to the area is minimal.

Equality: Section 149 of the Equality Act 2010 imposes a general public sector equality duty upon local authorities in the following terms:

"(1) - A public authority must, in the exercise of its functions, have due regard to the need to:

eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

foster good relations between persons who share a relevant protected characteristic and persons who do not share it. "

It is therefore necessary for the authority, in consideration of this report, as with consideration of any other proposal, to ensure that the above requirements have been met

The Council should give greater consideration to decisions that have a disproportionately adverse impact on a protected characteristic and this impact may be unintentional. In appropriate cases, this may involve an understanding of the practical impact on individuals so affected by the decision. Regard should be had to the effect of mitigation taken to reduce any adverse impact.

Further, the PSED is only one factor that needs to be considered when making a decision and may be balanced against other relevant factors. The Council is also entitled to take into account other relevant factors in respect of the decision, including financial resources and policy considerations. In

appropriate cases, such countervailing factors may justify decisions, which have an adverse impact on protected groups.

It is understood from a telephone call with Mr Edward James Smith that his wife Mrs Betty Churchill Smith has dementia however still resides at home (The Furze) with Mr Smith. Furthermore, both Mr and Mrs Smith are elderly and Mr Smith has other health concerns of his own. No evidence has been provided to support this but it has been considered in making the decision to take further action.

Mr and Mrs Smith are the landowners. They have no direct connection with the businesses operating on the site other than operating as a landlord. In correspondence to Mr Smith to date, personal circumstances have been taken into account and they have been advised that additional time could be given if they confirm they intend to seek voluntarily compliance and remove the unauthorised development. Unfortunately no such confirmations have been received or any requests for additional time sought.

There is an existing lawful dwelling on the site and therefore the right to their home is not affected by the unauthorised development. The removal of the unauthorised development does not affect Mr and Mrs Smith's peaceful enjoyment of their property.

The impact of the removal of the unauthorised development, namely a car sales use and a storage use not associated with Mr and Mrs Smith is no greater than anyone who does not have any protected characteristics.

The landowner's personal circumstances are not sufficient justification for the unauthorised development to continue, however a longer compliance period could be considered to allow additional time for alternative arrangements to be made. Officer have concluded, however, that as the planning unit doesn't include Mr & Mrs Smith's residence or residential curtilage and that the alleged breaches of planning control relate to commercial activity, it would not be necessary or reasonable to do so.

There are no known human rights or equality concerns associated with Mr Drew of Drew's Motor Vehicles.

The caravan on the site is being kept there for storage purposes only and is not occupied, and therefore there are no known human rights or equality concerns relating to the caravan.

The personal circumstances of the landowners is not justification to ignore planning policy and does not outweigh the harm caused by this development and public interest in upholding planning policy to protect the environment.

14.0 Proportionality

The Council believes it is acting in a fair and reasonable manner as it has tried informally to resolve the breach of planning control through the planning process however, this course of action has failed. All other forms of action to secure compliance with planning control and uphold council policies have been considered and cannot effectively be achieved by any lesser means than those recommended below.

Furthermore, Paragraph 60 of the NPPF states that '*Effective enforcement is important to maintain public confidence within the planning system*'.

Allowing this harmful development to continue sets an unrealistic and unreasonable precedent to the public. The unauthorised development is not a trivial breach of planning control and causes material harm and adverse impact on the surrounding area.

The Planning Practice Guidance (ref: 17b-005-2014030) states that effective enforcement is important to:

- Tackle breaches of planning control which would otherwise have unacceptable impact on the amenity of the area;
- Maintain the integrity of the decision-making process;
- Help ensure that public acceptance of the decision-making process is maintained.

There is a clear public interest in enforcing planning law and planning regulation in a proportionate way. The potential impact has been outlined in the above report. The criteria in bullet points 2 and 3 are key in this case to maintaining public confidence in the system. The Landowner and tenant have ignored the planning system and are refusing to make any attempt to regularise the situation following the refusal of 250109.

This case scores 7 on the Council's 'The Tool to assist with assessing harm' (Appendix 3) which indicates that enforcement action should be taken.

There is clear unacceptable harm to the countryside due to significant encroachment resulting in urbanisation of this rural location. In order to maintain confidence in the Council's countryside policies and guidance enforcement action is considered to be proportionate. It is clearly necessary and proportionate to take action to preserve the environment and consequently in the public interest to do so. The landowner has been given the opportunity to make a planning application for all of the unauthorised works before enforcement action has been considered.

In this case it is expedient to take action for the reasons outlined in this report in order to prevent the escalation of such developments on site, or at neighbouring properties, or in the countryside area in general.

15.0 Recommendation

It is recommended that an enforcement notice is served.

Alleged Breach:

Without planning permission, the material change of use of land and building to a vehicle storage (including caravans) and sales business

Reasons for issue:

- a. It appears to the Council that the above breach of planning control has occurred within the last ten years.
- b. The use of the land and building as a vehicle storage (including caravans) and sales business constitutes an unacceptable and unsustainable form of development in an unsustainable location which fails to maintain the quality of the environment and is detrimental to the character and appearance of the countryside and amenity of the area. The development comprises incongruous features within the countryside setting and is harmful to the undeveloped character and amenity of the wider area. It is contrary to Core Strategy policies CP1, CP3 & CP11 (2010), MDD Local Plan Policies CC01 & CC02 (2014), the National Planning Policy Framework (2024), and the advice and guidance contained in the Borough Design Guide (2012)
- c. The introduction of a sales and storage business in this remote, rural location, for which there is inadequate justification, has a harmful urbanising effect in this countryside location. The encroachment away from the original buildings and large expanse of outdoor vehicle storage and parking represents inappropriate development in the countryside. This is contrary to the National Planning Policy Framework (2024), Policies CP1, CP3 and CP11 of the Core Strategy (2010). Policies CC02, CC03 and TB21 of the Managing Development Delivery Local Plan (2014) and the advice and guidance contained in the Borough Design Guide (2012).
- d. The Land is located within Flood Zone 3 and comprises a significant area of hardstanding and outdoor storage. The unauthorised development results in the displacement of water to surrounding areas, with the consequential potential for an increase in flood risk in and around the site for which a sequential test, exception test or a flood risk assessment have not been provided to justify the development. This conflicts with the National Planning Policy Framework, Policy CP1 of the Core Strategy, and Policies CC09 and CC10 of the Managing Development Delivery Local Plan.
- e. Planning permission should not be given because planning conditions could not overcome these objections and planning permission 250109 has been refused on this basis.
- f. To remedy the breach of planning control.

Requirements:

- i) Cease the use of the Land edged red for vehicle storage (including caravans) and sales.

ii) Excavate the hardstanding in the approximate position hatched in black on the attached plan and return the Land to its former condition.

iii) Disconnect and remove all external lighting from the Land.

iv) Remove all signage, vehicles, caravans, materials, goods or items of any sort associated with the vehicle storage (including caravans) and sales business from the Land.

v) Remove the resultant materials from carrying out steps (i) to (iv) from the Land.

Time period:

Six months from the date the notice takes effect.

Signed:

Recommendation
Agreed/~~Not agreed~~



Signed:

Operational Manger – Development Management & Compliance

Dated: 13 May 2025

Report Author (Research): Helen Maynard

APPENDIX 1 – OFFICER’S REPORT 250109**DELEGATED OFFICER REPORT**
WOKINGHAM
BOROUGH COUNCIL

Application Number:	250109
Site Address:	The Furze Workshops, Dunt Avenue, Hurst, Wokingham, RG10 0SY
Expiry Date:	20 March 2025
Site Visit Date:	11 February 2025
Proposal: Full application for proposed change of use of the existing building and associated land to a car sales garage. (Retrospective).	

PLANNING CONSTRAINTS/STATUS

Local Authorities
 Affordable Housing Thresholds
 Bat Roost Habitat Suitability
 Borough Parishes
 Scale and Location of Development Proposals
 Great Crested Newt Consultation Zone
 Ground Water Zones
 Nuclear Consultation Zone
 Borough Wards
 Water Vole Buffer Zones
 Landscape Character Assessment Area
 SSSI Impact Risk Zones
 Main Rivers DRN Consultation Zone
 Main Rivers DRN
 JCEB Areas of Search for Sand and Gravel
 JCEB Mineral Safeguarding Areas
 Great Crested Newt Consultation Zone Minor

PLANNING POLICY

National Policy	National Planning Policy Framework (NPPF) National Planning Policy Guidance (NPPG)
Core Strategy (CS)	CP1 – Sustainable Development CP3 – General Principles for Development CP6 – Managing Travel Demand CP7 – Biodiversity CP9 – Scale and Location of Development Proposals CP11 – Proposals Outside Development Limits CP15 – Employment Development
MDD Local Plan (MDD)	CC01 – Presumption in Favour of Sustainable Development CC02 – Development Limits CC03 – Green Infrastructure, Trees and Landscaping CC06 – Noise CC07 – Parking TB21 – Landscape Character
Other	Borough Design Guide Supplementary Planning Document

PLANNING HISTORY

Application No.	Description	Decision & Date
43203	Change of use from poultry houses to light industrial (B1) use	Approved: December 1994

CONSULTATION RESPONSES

Internal

WBC Highways – No objection
WBC CIL – Non liable development

External

None

REPRESENTATIONS

Hurst Parish Council	Refer to appeal (APP/X0360/C/22/3294935) for a similar scheme than currently proposed
Ward Member(s)	No comments received
Neighbours	No comments received

APPRAISAL

Context: The application site comprises a complex of former agricultural buildings on former agricultural land. The site lies within the countryside of Hurst.

This application seeks retrospective planning permission for the proposed change of use of an existing building and associated land to a car sales garage. The hardstanding on the site does not benefit from planning permission and does not form part of this permission therefore has not been assessed on this basis. This hardstanding is discussed in depth within the accompanying Planning Statement, however, the Council does not take any assessment or view on its lawfulness as part of this application.

The building and surrounding land subject to this application were granted permission in 1994 under reference 43203, where a light industrial permission pertains. This was the subject of various conditions pertaining to a limitation on external storage (3) and hours of operation (2).

Principle of Development: 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.

The site is located in the countryside and therefore must be assessed against policy CP11. This policy states that proposals outside of development limits will not normally be permitted except where:

- 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.

For the proposed change of use to be considered compliant with exception 1 of policy CP11, the current use of the building would have to be associated with, and necessary to, a rural enterprise. There is no definition of that which constitutes a rural enterprise, however, it is clear that the business represents a commercial enterprise, with no intrinsic link to the countryside. *Vehicle sales and storage premises are not typically considered rural enterprises and in my experience are more usually located in urban areas* (see appeal reference APP/X0360/C/22/3294935 paragraph 28). It is therefore not considered to contribute to a diverse and sustainable rural enterprise within the borough, or contribute and/or promote recreation in, and enjoyment of, the countryside.

The scale of the development also leads to excessive encroachment and expansion of development away from original buildings, contrary to exception 2. This relates to the use of the land for the storage of vehicles associated with the commercial practice, where a large area of the site to the east is being used permanently for this purpose. Part of this area of the site is noted under planning permission 43203 as a manure storage area and turning compound.

Policy CP15 states that development for business, industry or warehousing will be permitted, including the expansion or intensification of existing employment uses provided it is within one of the Core Employment Areas. The application site is located in the Countryside, isolated from any settlement and employment area. Due to the remoteness of the application site, any employees (unspecified) or visitors (expected to be, but not limited to, 6 per week) would be dependent on private cars. There is no safe or convenient pedestrian or cycling route and no public transport to the site. The site is considered to be an unsustainable location for a new commercial unit. This is discussed in further detail later on in this report.

Emphasis is placed on a recent appeal decision at The Vale, Forest Road, Binfield (APP/X0360/C/22/3294935), for a similar development in the countryside, which was dismissed by the Inspector. This site was for the same business (Drew's Motor Vehicles), in a different rural location within the Parish of Hurst. In paragraph 36 of this decision, the inspector noted the following:

"While the car sales business generates employment, I see no reason why it would not be possible to locate such a business within one of the defined settlements identified

in policy CC02, particularly since the appellant utilises the internet as his principal sales platform. Such matters do not, therefore, outweigh the harm arising from the location of the business outside any defined settlement or from the reliance on private vehicle."

The number of employees of the business at the time of this appeal was 3 and the expected number of visitors to the site was one per day.

The Planning Statement refers to it being material that Drew's Motor Company was located at Forest Road until recently indicating the same business has not changed other than its location. They also refer to planning applications F/2003/8509 and 212640. However, the Inspector for the aforementioned decision states at paragraphs 30 and 31 that F/2003/8509 was determined under a different policy context. In relation to 212640, this was refused, and no appeal was made.

No reference is made to the enforcement notice which upheld by appeal APP/X0360/C/22/3294935 at this site which required the car vehicles and sales business to cease.

The Inspector's decision above is for the same business and has direct similarities with the current development, as the applicant for the dismissed appeal is the same as that of this application. There is nothing contained within the current application that is deemed to affect this conclusion.

Whilst it is acknowledged that the proposal would partly comply with exception 3 of the CP11, in that it would operate within an existing building which is appropriate for conversion, only a limited part of the development is within the building and the majority of the change of use comprises land surrounding the building. Regardless, the wording of Policy CP11 requires compliance with all three of the requirements listed above for development to be supported in principle. As the development fails to comply with the first and second requirement of CP11, the development is unacceptable in principle. As such, this must be weighed against any benefits of the development and adjudged against any harm. This will be assessed throughout the report, with a summary of this matter provided in the conclusion.

Character of the Area: Policy CP3 of the Core Strategy states that development must be appropriate in terms of its scale, mass, layout, built form, height and character of the area and must be of high-quality design. R1 and RD1 of the Council's Borough Design Guide (BDG) requires developments to contribute positively towards and be compatible with the historic or underlying character and quality of the local area. R11 requires coherent street character, including terms of scale, rhythm, proportion, and height. Policy CP1 of the Core Strategy requires developments to maintain or enhance the high quality of the environment.

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. Accordingly, it is clear that a light industrial use was accepted on the basis that the use and associated activities were limited to the subject buildings. Alternatively, the proposed development would encroach into the countryside more than previously allowed development by virtue of using the large area of land to the east as associated car storage/preparation.

The applicant argues that the site is not readily visible from public vantage points, being contained by landscape features, thus there being no prima face conflict with development plan policy TB21. Whilst it is acceptable that views of the vehicular storage would be limited from wider sights, it is well established from previous appeal decisions that visual harm to the countryside is not limited to the visibility of development from the public realm. As noted by the Inspector for appeal decision APP/X0360/W/16/3159457, *“a use with an appearance that is uncharacteristic of a rural location such as this cannot simply be justified because it is “out of sight out of mind”*. In any case, reliance upon said landscaping to justify the development is not acceptable due to the transient and non-permanent nature of vegetation. If removed, or should die, it would render the vehicular storage more alien, discordant and at odds with the countryside setting, in a highly visible location.

Ultimately, the previous permission (1994) was clear about the visual impact development could have on the surrounding area and imposed conditions which restricted the storage of items to inside the building and recognised the impact the external storage could have on the area. Alternatively, the retrospective use mainly relates to the external area. The development would see in excess of 20 cars being stored on the site which would have an unacceptable visual impact on this countryside location.

The character of the area is predominantly rural and open which the development must respect and not compromise these qualities. The introduction of a significant number of cars in this location has had an urbanising effect on this countryside location and has negatively altered the appearance of site. The commercial activity has expanded beyond the footprint of the building, something that the 1994 application particularly sought to resist. The use and development is not considered to maintain or enhance the high quality of the environment. The development has resulted in excessive encroachment within the countryside and the scale and form of the activity is inappropriately located.

Neighbouring Amenity: There would be no adverse impacts upon the amenities of neighbouring residents as a result of the retrospective development.

Highway Access and Parking Provision: WBC Highways have requested further information regarding the size of the subject building as it does appear to be smaller than what is there on site and shown on the company’s website. This is not considered prudent to pursue, given the application is being refused on separate grounds, however, clarification would have been required otherwise.

Sustainability of Location: The site is located on Dunt Avenue which is not served by footpaths or street lighting and outside of any defined settlement (CC02). As stated previously, the employees and visitors to the business are likely to rely on the private car.

Policy CP6 requires provision for sustainable forms of transport which are not available in this location as the only reasonable access is by motor vehicle. The introduction of this new business and use adds to the impact of the use of motor vehicles to access the site as public transport is not or not easily available to the site. No travel plan has

been provided or suggested by the applicant. It would be reasonable for this type of development to be located elsewhere in a more sustainable location. The unlawful use of the site does not constitute a sustainable rural enterprise within the borough due to the level of transport journeys that would result from this, as well as additional noise and pollution.

CP9 requires development proposal to reflect existing or proposed levels of facilities and services at or in the location together with their accessibility. The site is not within a Strategic Development Location and the cumulative impact of the unauthorised development causes harm to the countryside.

The National Planning Policy Framework seeks to ensure that appropriate opportunities to promote sustainable transport modes can be taken up. The location of the development is contrary to policy CP1, which supports proposals that demonstrate how they support opportunities for reducing the need to travel, particularly by private car and policy CP3 of the CS, which seeks to ensure that proposals are, amongst other things, accessible. The development is also contrary to the advice contained within the Borough Design Guide, which seeks to encourage walking, cycling and public transport use.

Again, reference is made to the Inspector's decision, paragraph 36, in which the Inspector states that the harm arising from the rural location and reliance on private car is not outweighed by any other benefits.

Conclusion: The introduction of a car maintenance and sales use, development and associated paraphernalia of the scale outlined in this application has a cumulative and detrimental impact on this countryside location and the landscape character. The development is in an unsustainable location with a detrimental visual impact. On this basis, any economic or other benefits associated with the development are significantly outweighed by the harm identified. The application is therefore recommended for refusal.

Community Infrastructure Levy (CIL): When planning permission is granted for a development that is CIL liable, the Council will issue a liability notice as soon as practicable after the day on which the planning permission first permits development. Completing the assumption of liability notice is a statutory requirement to be completed for all CIL liable applications.

The Public Sector Equality Duty (Equality Act 2010): In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. There is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts as a result of the development.

RECOMMENDATION	
Conditions agreed:	N/A
Recommendation:	Refuse and enforce
Date:	19 March 2025
Earliest date for decision:	17 February 2025

Recommendation agreed by: (Authorised Officer)	<i>HMM</i>
Date:	19 March 2025

Appendix 2: Decision Notice

PLANNING PERMISSION

GR

WOKINGHAM DISTRICT COUNCIL

LOCAL GOVERNMENT ACT 1972

TOWN AND COUNTRY PLANNING ACT 1990

To: MR E J SMITH
THE FURZE
TENT AVENUE
HURST
READING RG10 0DY

WOKINGHAM DISTRICT COUNCIL
COUNCIL OFFICES
SHUTE END
WOKINGHAM, BERKS., RG11 1BN

Application No. 43203 (P)

Proposal:
CHANGES OF USE FROM DOULTY HOUSES TO LIGHT INDUSTRIAL
(B1) USE
THE FURZE TENT AVENUE ST NICHOLAS HURST

The Wokingham District Council in pursuance of their powers under the above Acts hereby GRANT Planning Permission for the carrying out of the above development in accordance with the application and the accompanying plans submitted by you to the Council subject to compliance with the following conditions the reasons for which are specified thereunder.

01 The development hereby permitted shall be begun before the expiration of five years from the date of this permission. (04)

01 REASON This condition is deemed to be attached by virtue of Section 91(1) of the Town and Country Planning Act 1990. (04R)

02 No machinery shall be operated within the building W1 and W2 before 8.00am on weekdays and 9.00am on Saturdays, nor after 7.00pm on weekdays and 1.00pm on Saturdays, nor at anytime on Sundays or Bank Holidays.

02 REASON In the interests of amenity.

03 No materials, goods or items of any sort associated with the use of the site shall be deposited or stored in the open on the site.

03 REASON In the interests of amenity.

04 No external lighting of any type shall be provided without the prior written permission of the District Planning Authority.

04 REASON In the interest of amenity.

05 Notwithstanding the provisions of the Town and Country Planning General Development Order 1988 (or any order revoking or re-enacting that Order), no development shall take place under the terms of Class A,B,A,B

continued/-

Application 43203 continued

Part 8 of Schedule 2 of that Order without the prior written consent of the Local Planning Authority. (015M)

05 REASON In order to protect the character and amenities of the locality.
(015M)

Date: 19 DEC 1994

R.F. Williams
District Planning Officer

N.B. A statement of the applicant's rights is attached

This permission or approval is for the purposes of the Town and Country Planning Act 1990 only. Approval may also be required under the Building Regulations.

Note: Would you please ensure that the Red Public Notice relating to this planning application which the Council sent to you to put on display is now removed, if this has not already been done. This will avoid any confusion by local residents as to whether further applications have been made, and will assist in keeping the countryside and townscapes tidy.

INFORMATIVE: If this planning permission relates to the erection or extension of a building, then the following section applies:-

REMARKS ACT 1984- SECTION 32: ACCESS FOR FIRE BRIGADE

(1) Except as provided in subsection (2) below, where plans for the erection or extension of a building are deposited with a district council in accordance with building regulations, the district council shall reject the plans unless, after consultation with the fire authority, they are satisfied that the plans show:-

(a) that there will be adequate means of access for the fire brigade to the building or, as the case may be, to the building as extended; and
(b) that the building or, as the case may be, the extension of the building will not render inadequate existing means of access for the fire brigade to a neighbouring building.

continued/-

Application 43203 continued

(2) No requirement concerning means of access to a building or to a neighbouring building shall be made under this section in the case of a building to be erected or extended in pursuance of a planning permission granted upon an application made under the Act of 1971, unless notice of the provisions of this section is endorsed on or accompanies the planning permission.

(3) Section 15(7) and (8) and section 25(2) to (6) of the Building Act 1984 (notice of rejection or passing of plans and enforcement of requirements) shall apply as if this section were a section of the said Act of 1984.

(4) Any person aggrieved by the action of the district council in rejecting plans under this section may appeal to a magistrates' court.

(5) In this section references to the adequacy or inadequacy of means of access for the fire brigade shall be construed as references to a means of access adequate or, as the case may be, inadequate for use for fire-fighting purposes by members of one or more fire brigades and their appliances.



Appendix 3 - Tool to assist with assessing harm (the negative impacts)

Number	Factor	Impact	Score
1	Is the breach:	Worsening? (1) Stable? (0)	1
2	Highway safety issue	Yes? (2) No? (0)	0
3	Other safety issue (not covered by other legislation)	Yes? (2) No? (0)	0
4	Is it causing serious or irreversible harm to the environment or surrounding area	Yes - Widespread? (2) Yes – Local? (1) None? (0)	1
5	Age of breach	Within 6 months of immunity? (2) Less than 3 months old? (1) More than 3 months old? (0)	0
6	Planning policy breach	Yes? (1) No? (0)	1
7	Flood risk	Zone 3 (2) Zone 2 (1) Zone 1 (0)	2
8	Breach of planning condition or Article 4 direction	Yes? (1) No? (0)	0
9	Conservation Area or adjacent to	Yes? (1) No? (0)	0
10	Listed Building or affecting character or setting of a listed building/Registered Listed Park and Garden or other adjacent sensitive site	Yes?(1) No? (0)	0
11	Particularly sensitive site e.g. SSSI, AONB, Scheduled Ancient Monument, Archaeological Importance	Yes? (1) No? (0)	0
12	Affecting TPO trees/Ancient Woodland/Ancient or Veteran Trees	Yes? (2) No? (0)	0
13	Undesirable precedent (provide details)	Yes? (1) No? (0)	1
		TOTAL	7

NB For formal enforcement action to be taken it is likely that the harm score will need to be 5 or more. This is only one of the tools/tests that the Council will use to assess whether formal action should be taken.