

## Enforcement Notices – Fry’s Bottom

### Justification Statement on Grounds A of Appeal:

“that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged”

### Overview

This statement sets out why planning permission should be granted under **Ground (a)** of section 174(2) of the Town and Country Planning Act 1990. The justification is founded on adopted local planning policies and national guidance.

23/00023/UNDEV/COU1

### Firewood Production

#### 1. Introduction

- 1.1. This statement supports the position that the production of firewood from timber felled within a woodland holding constitutes a lawful ancillary use to forestry, and as such does not constitute a material change of use requiring planning permission, should not be subject to enforcement action; and if considered under Ground (a) at appeal, is compatible with national and local planning policy, especially within a Green Belt context.

#### 2. Planning Framework and Definition of Forestry Use

##### 2.1. Forestry as a Use of Land (Town and Country Planning Act 1990)

- 2.1.1. Section 22 of the Town and Country Planning Act 1990 defines “development” as including the material change in the use of any buildings or other land.

- 2.2. However, where activities are part of the primary land use or reasonably ancillary to it, they do not constitute development.

##### 2.3. Case Law and Practice

- 2.3.1. Established case law (e.g. *Burrett v. SSE & Mid-Sussex DC [1992]*) supports the principle that activities reasonably necessary for the purposes of forestry, including timber extraction, sorting, and processing, are not material changes of use. Firewood

production, where the timber originates from the same woodland, is widely regarded as part of the forestry process.

### **3. Firewood Production as Ancillary to Forestry**

#### **3.1. Functional and Operational Link**

- 3.1.1. Firewood production is the logical and sustainable end-use of timber by-products (e.g. from thinning, coppicing, windblown clearance, and diseased tree removal).
- 3.1.2. It represents on-site value-adding to otherwise waste wood, facilitating better woodland health and supporting long-term management.
- 3.1.3. Activities such as cutting, splitting, and seasoning of firewood are physically and functionally tied to the woodland and its ongoing care.

#### **3.2. No Separate Commercial or Industrial Use**

- 3.2.1. Firewood production is not an independent commercial use, but a by-product of woodland maintenance.
- 3.2.2. There are no external imports of timber; all wood processed originates within the holding.
- 3.2.3. There is no intensification (e.g. factory-like operations, industrial structures, high traffic) that would indicate a change in character of the land.

### **4. Consistency with National and Local Policy**

#### **4.1. NPPF Paragraph 154 – Forestry in the Green Belt**

- 4.1.1. The NPPF confirms that forestry is not inappropriate development in the Green Belt and allows for “facilities in connection with the existing use of land for forestry”.

#### **4.2. Justification:**

- 4.2.1. Firewood production is part of the overall woodland management system and consistent with the NPPF aim to support sustainable rural land uses.
- 4.2.2. The activity preserves openness, with no built form or visual impact introduced beyond what is acceptable in a forestry context.

#### **4.3. BANES Core Strategy and Local Plan**

- 4.3.1. Policy CP8 (Green Belt): Does not prohibit forestry operations and supports appropriate rural activity that safeguards openness.
- 4.3.2. Policy NE2 & NE3: Encourage woodland enhancement and biodiversity through management – objectives served by active firewood processing.

- 4.3.3. Climate and Ecological Emergency Declarations: BANES actively supports local, low-carbon energy solutions and sustainable land management. Firewood production contributes to low-carbon heat and circular woodland economies.

## **5. Planning Enforcement and Proportionality**

### **5.1. Enforcement against firewood production would be:**

- 5.1.1. Contrary to the legal principle of de minimis and ancillary uses;
- 5.1.2. Incompatible with national and local policies that encourage active woodland management and self-sustaining rural practices;
- 5.1.3. Potentially undermining the objectives of sustainable forestry and environmental stewardship.

- 5.2. Where enforcement has been served, it should be withdrawn or quashed, and if planning permission is sought under Ground (a), it should be granted, as the use is entirely consistent with policy and not harmful in planning terms.

## **6. Conclusion**

### **6.1. Firewood production is:**

- 6.1.1. A longstanding and integral part of traditional forestry;
- 6.1.2. Ancillary to the primary use of land for forestry;
- 6.1.3. Compatible with Green Belt and rural planning policies at both national and local level;
- 6.1.4. A low-impact, sustainable activity that supports ecological and climate goals.

- 6.2. Accordingly, planning permission should not be required, and any enforcement action should be discontinued. If permission is sought retrospectively, it should be granted on the grounds that the use is appropriate and policy compliant.

## Equestrian Use

### 7. Introduction

- 7.1. This statement supports an appeal under Ground (a) of Section 174 of the Town and Country Planning Act 1990, seeking planning permission for the continued use of land for equestrian purposes within the Green Belt in Bath and North East Somerset (BANES).
- 7.2. It demonstrates that the equestrian use constitutes appropriate development in accordance with both the National Planning Policy Framework (NPPF) and the adopted BANES Local Plan, and that permission ought to be granted on its planning merits.

### 8. National Policy Context – NPPF

- 8.1. Paragraph 154(d): Equestrian Use as Appropriate in the Green Belt

*"Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include... the use of land for outdoor sport and recreation."*

#### 8.2. Justification:

- 8.2.1. Equestrian use falls squarely within the category of outdoor recreation, a use long recognised as compatible with Green Belt policy.
- 8.2.2. Where built development is modest or absent, and the land remains largely open, equestrian use preserves the openness of the Green Belt.
- 8.2.3. The use does not lead to urban sprawl, encroachment, or conflict with any of the five core purposes of Green Belt designation.

### 9. Local Policy Context – BANES Development Plan

- 9.1. Policy CP8 – Green Belt

- 9.1.1. Policy CP8 mirrors the NPPF and supports appropriate development within the Green Belt, including outdoor sport and recreation.

#### 9.2. Justification:

- 9.2.1. The use of land for grazing, exercising, and riding horses is a long-established countryside use and is consistent with Policy CP8.
- 9.2.2. Where any associated development (e.g. field shelters or fencing) is modest in scale and rural in appearance, it is not harmful to Green Belt objectives.

- 9.3. Policy NE2 – Landscape Character

- 9.3.1. This policy seeks to conserve and enhance local landscape character.

#### **9.4. Justification:**

- 9.4.1. The equestrian use is entirely consistent with the rural, pastoral landscape of BANES's Green Belt.
- 9.4.2. Use of existing land, with low-impact infrastructure (e.g. post-and-rail fencing, small shelters), preserves the visual amenity and character of the countryside.

#### **9.5. Policy RE1 – Rural Enterprise**

- 9.5.1. RE1 encourages appropriate rural uses, including diversification and land-based recreation.

#### **9.6. Justification:**

- 9.6.1. Equestrian use represents a legitimate rural enterprise or private land use that supports local land management and outdoor activity.
- 9.6.2. Where commercial or part-commercial, it offers rural employment and recreational benefit, both supported by Policy RE1.

### **10. Planning Balance**

- 10.1. The planning balance clearly favours the equestrian use:
  - 10.1.1. No demonstrable harm arises to openness, landscape character, biodiversity, or amenity;
  - 10.1.2. The use is explicitly supported in principle by national and local planning policy;
  - 10.1.3. The development is modest in scale, visually discreet, and appropriate in a rural setting;
  - 10.1.4. Refusal or enforcement would undermine a low-impact, sustainable countryside use.

### **11. Conclusion**

- 11.1. The use of the land for equestrian purposes:
  - 11.1.1. Falls within a category of appropriate Green Belt development under Paragraph 154 of the NPPF;
  - 11.1.2. Complies with BANES Local Plan policies CP8, NE2, and RE1;
  - 11.1.3. Supports responsible rural land management, low-impact recreation, and countryside stewardship;
  - 11.1.4. Results in no material harm to the openness or purposes of the Green Belt.

11.1.5. Accordingly, it is respectfully submitted that planning permission should be granted for the use, and the appeal under Ground (a) should succeed.