

An aerial photograph of a caravan park, likely Gundrys Farm Caravan Park, during a sunset. The park is filled with numerous white and blue caravans arranged in rows, interspersed with lush green trees. In the background, a body of water is visible under a sky with soft orange and pink hues. The overall scene is peaceful and scenic.

laister

PARTNERS IN PLANNING

Royale Parks (Dorset) Limited

New Forest Court Park (Gundrys Farm Caravan Park)
School Lane, Three Legged Cross, Wimbourne, BH21 6RU

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Version 2
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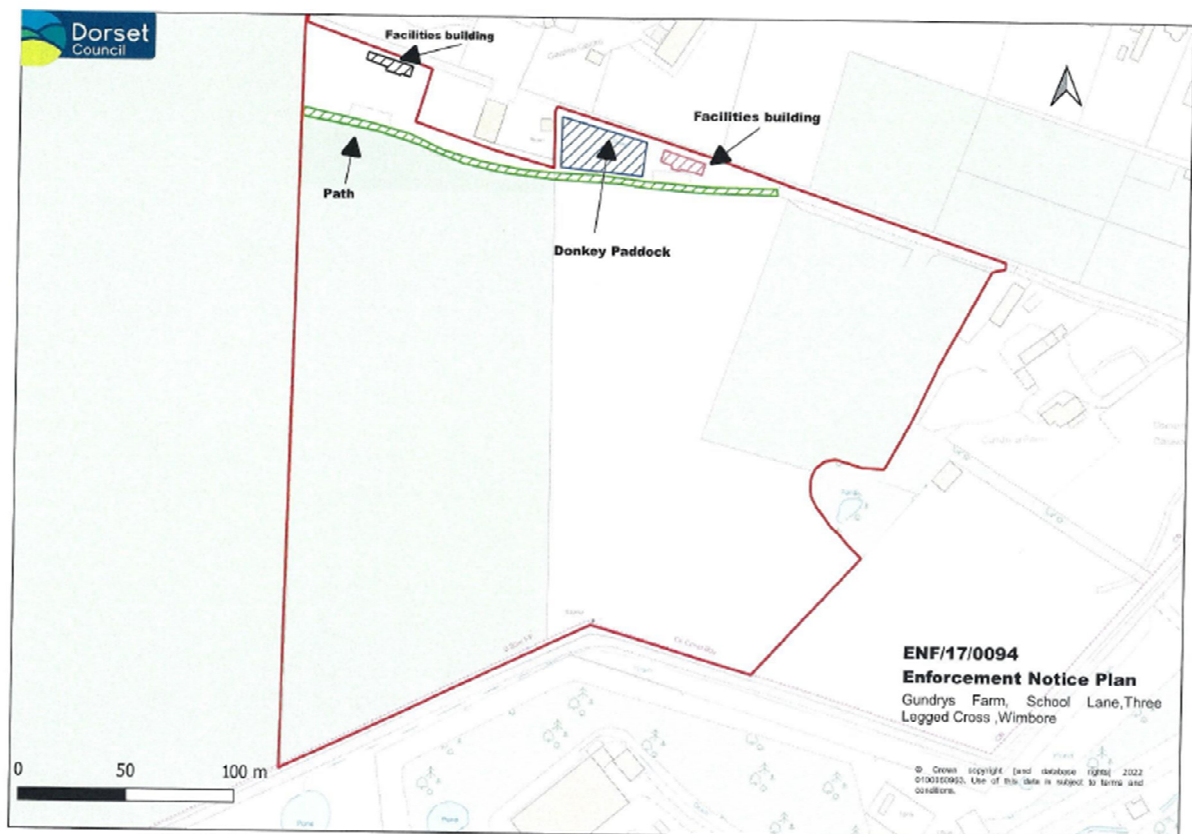
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1. Introduction

- 1.1. On behalf of Royale Parks (Dorset) Limited (the "Appellant", and owner of the site described below), Laister Planning Limited ("LPL") has prepared this Appeal Statement of Case (the "SoC") for the appeal (Planning Inspectorate Ref: APP/D1265/C/22/3313965) against the Enforcement Notice (the "EN") Issued on 4th October 2022 by Dorset Council (the "the Council"), which is the Local Planning Authority (the "LPA") for the Appellant's site at New Forest Court (previously known as "Gundrys Farm Caravan Park" as referred to in the EN), School Lane, Three Legged Cross, Wimbourne, Dorset, BH21 6RU (the "Site"). The LPA's Reference for the EN is ENF/17/0094.
- 1.2. The Site can be found in the EN, which is enclosed in Appendix 1 of this Statement. An extract is found here for ease of reference:



- 1.3. It forms the western portion of the overall land holdings of the Appellant, details of which are provided in the following sections of this SoC.

The EN

- 1.4. The EN was Issued under Section 171(1)(a) of the Town and Country Planning Act 1990 (the "TCPA", as amended), and alleged the following development was carried out in breach of planning control (i.e. without planning permission) in Section 3 of the EN:
"Without planning permission, the unauthorised material change of use in the Land:



A. Contrary to section 171A(1)(a) of the Town and Country Planning Act 1990 the unauthorised material change in the use of the Land edged red on the attached plan marked as 'Planning Unit A' from a lawful mixed use of agriculture and a caravan site for exempt organisations In accordance with Part 5 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England)Order 2015 and schedule 1 of the Caravans [sic] Sites and Control of Development Act 1960 to a mixed use of agriculture and an unauthorised caravan site consisting of:

- i The stationing of caravans (with or without awnings), motorhomes, campervans, trailer-tents and tents for the purpose of human habitats; and*
- ii The storage of caravans,*
- iii The keeping of donkeys,*
- and*

B. Contrary to section 171A(1)(a) of the Town and Country Planning Act 1990, the carrying out of unauthorised operational development on the Land edged red on the attached plan marked as "Planning Unit A", which facilitates the unauthorised material change In use of the land alleged in section A above. The unauthorised integral operational development consisting of the following:

- i Hard standings and tracks;*
- ii Toilet and shower blocks;*
- iii Sceptic [sic] Tanks*
- iv Electrical hook-up equipment;*
- v. Fire hydrants;*
- vi A water/waste water facility*
- vii Location signs.*
- viii Animal shelter and concrete base"*

1.5. The above is referred to as the "existing development" in this report.

1.6. The reason is provided under Section 4 of the EN. For brevity reasons. it is not repeated in full here, but it can be summarised as follows:

- The presumption in favour of sustainable development does not apply as the site has not been subject to an appropriate assessment which has concluded that the project would not adversely affect the integrity of the nearby habitat sites.
- The location, scale and distribution of unauthorised development fails to confirm to the settlement hierarchy, and it would erode the site's openness and undermine the Green Belt's "essential characteristics increases visitor pressure on the Dorset Heaths and in the absence of any possible or appropriate mitigation the unauthorised development is not acceptable."
- The site lies within 400m to 5km from other protected heathland sites, and the Hold and West Moors Heath Site of Special Scientific Interest (a "SSSI"). The unauthorised development is considered to have the same impacts as a C3



Residential use, which would not be appropriate in this location.

- *"Potential noise, Impact upon residential amenity, general disturbance, traffic generation, unlawful works and unauthorised use are considered contrary to policy. The unauthorised development has a harmful Impact on the amenity of the area"*
- Whilst this business site makes a positive contribution to the economy, the use of land must not cause harm to the openness of the Green Belt or have adverse impacts on sensitive habitats. Without appropriate mitigation, the site is contrary to adopted policies.
- The policies cited are: HE2, HE3, KS1, KS2, KS3, ME1, ME2, PC4 and PC6 of the Core Strategy; saved Policy TODEV2 of the East Dorset Local Plan 2002, Policies 84, 137, 148, 149, 174 to 182 and 195 of the National Planning Policy Framework, and Dorset Heathlands Planning Framework 2020-2025.
- The Imposition of conditions may mitigate some harmful Impacts Identified, planning permission would not be granted for the unauthorised development as such could not overcome all adverse Impacts identified.

1.7. The EN requires the following to be carried out with the EN:

5. **WHAT YOU ARE REQUIRED TO DO**

Permanently:

A. Cease* the use of the Land for the stationing of caravans (with and without awnings), motorhomes, campervans, trailer-tents and tents for the purposes of human habitation

*This notice does not affect any existing use rights or uses that are not development of land 'or any applicable permitted development under The Town and Country Planning (General Permitted Development) (England) Order 2015.

B. Cease the use of the Land for the storage of caravans

C. Demolish and remove from the Land, all:

- i. toilet and shower blocks including associated decking and fencing;
- ii. electrical hook-up equipment;
- iii. fire hydrants;
- iv. water / waste water facilities
- v. location signs

- 1.8. Whilst we come to it later in the report, the EN does not require the cessation of the alleged unauthorised use of land as a donkey paddock, nor does it require some of the operational development referred to in the alleged breaches of planning control to be removed.
- 1.9. The EN would have taken effect on 4th January 2023 had an Appeal not been made before this date.
- 1.10. The EN was accompanied by a Regulation 37 Notice (the "Reg 37") under The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the "EIA Regs", as amended), which can be found in the EN at Appendix 1.
- 1.11. Section 1 refers to the alleged development. In this section, the Reg 37 refers to the "Council's Enforcement Notice dated 24/03/2021" which is a different and withdrawn



Notice that no longer exists. We come to this point below.

1.12. It is noted that the Reg 37 document refers to the caravan site as being 'authorised'. This is presumably a typographical error on the Council's part, as otherwise, the Reg 37 Notice would certainly be a nullity as it would not identify an unauthorised use.

1.13. Section 2 sets out the reason for the Reg 37 Notice as:

2. It is the Council's opinion that the development to which the Enforcement Notice relates is "Schedule 2 development" within the meaning of the Town & Country Planning (Environmental Impact Assessment) Regulations 2017 being Tourism and leisure development covering more than 1 hectare and potentially accommodating over 200 units comprising of caravans, motorhomes and tents which is considered likely to have significant effects on the environment for the following reasons:

- the development's size and likely capacity to be able to accommodate over 200 plus caravans, tents and/or camper vans on former agricultural land, in accumulation with what is deemed to be lawfully established on the site (a total of 54 units comprising of caravans, tents and/or camper vans, making no distinction between them, on land measuring approximately 1.9 hectares);
- together with the necessary infrastructure to facilitate such a large camping and caravanning use;
- together with the amount of significant traffic movements associated with such a use, noise and general nuisances caused by the coming and going of users of such a facility, and;
- its proximity to Holt and West Moors Heath SSSI which is also an Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site (wetlands and waterfowl) protected by international legislation, which will add visitor pressures to these areas, and risk of predation of wildlife at this site by cats, disturbance to ground nesting birds by dogs

1.14. Section 3 Indicates that an Appeal should be accompanied by an Environmental Statement, as the development is considered to be "EIA Development" in accordance with the provisions of the EIA Regs.

The Appeal Preliminaries

1.15. An Appeal was lodged on 30th December 2022 to the Planning Inspectorate ("PINS"), which was before the EN was due to come into effect. The Appeal form can be found In Appendix 2. It claimed the following grounds of the Appeal:

- Ground (a) - that planning permission should be granted for what is alleged in the notice.
- Ground (b) - That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.
- Ground (c) - that there has not been a breach of planning control (for example because permission has already been granted, or it is "permitted development").
- Ground (d) - That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.
- Ground (f) - The steps required to comply with the requirements of the notice



are excessive, and lesser steps would overcome the objections.

- Ground (g) – the time given to comply with the notice is too short.

1.16. Evidence of the payment of the relevant planning fee of £924.00 required for the Ground (a) Appeal, in the form of a NatWest Bank Remittance Statement, was provided as part of the submission of the Appeal. The fee was paid on 16th December 2022 at 15:27, and a copy of the Remittance Statement can be found in Appendix 3.

Statement of Matters

1.17. The Appellant submitted a Statement of Matters (the "SoM"), which complemented the Appeal submission. This was prepared by the Appellant's Counsel (Richard Harwood KC OBE), in conjunction with LPL. A full copy of the SoM can be found in Appendix 4. This identified a number of issues with the EN along with providing further details of the Grounds of Appeal. It can be summarised as follows:

1.18. The Appellant considers that there are defects with the EN, which mean it is a nullity or that the errors in the EN cannot be corrected without causing injustice, as follows:

- *"The notice alleges the unlawful stationing of caravans 'for human habitation'. The stationing of caravans for human habitation is the principal part of the statutory definition of caravan site.¹ Human habitation encompasses permanent residential and holiday occupation, including use of a caravan site for exempt organisations. As set out in the notice, the allegation is that there has been a change from a use including the stationing of caravans for human habitation to a use including the stationing of caravans for human habitation. That is not a change of use, let alone capable of being a material change of use. It is simply unclear what is being alleged in section 3 A."*
- The EN refers to 'Planning Unit A' but there is no area marked 'Planning Unit A' on the attached plan. The EN also does not identify the two facilities buildings as referred to in the accompanying Plan.
- It is unclear whether existing use rights, particularly the use of land as a caravan site for sole use by exempt organisations, provided for under the Town and Country Planning (General Permitted Development) (England) Order 2015 (the "GPDO", as amended) and the Caravan Sites and Control of Development Act 1960 (the "1960 Act", as amended) are being preserved or removed by the way the EN has been drafted, which requires the cessation of the land for the use as a caravan site, but also refers to the EN not affecting any existing use rights, uses that are not development or any applicable permitted development rights.
- There is a mismatch between the breaches alleged and the steps required, including with regards to the 'water/waste water facility' and the 'keeping of donkeys'.

1.19. As noted in the SoM, an EN cannot be a nullity in part, according to case law as referred to in the Statement. It concludes on the nullity point that: *"The present case is even more 'hopelessly unclear'..."* when referring to other Notices which have been



found to be a nullity.

- 1.20. As referred to briefly above at Paragraph X, the Reg 37 Notice refers to a different Enforcement Notice, which has long been withdrawn by the LPA and no longer exists. The Reg 37 Notice has no legal effect.
- 1.21. It also refers to 'authorised caravan site' in its allegations.
- 1.22. The Annex provided sets out that *"a copy of the Council's screening opinion has been attached to this Notice at Appendix A"*. No such Appendix A exists. It is not clear from the documents provided whether the Opinion was omitted, or the Screening Opinion is simply what is stated in the Reg 37 Notice.
- 1.23. The SoM explains that the justification for the Reg 37 Notice also contains numerous errors, summarised as follows:
 - the Enforcement Notice land is an existing lawful tourism and leisure development;
 - the assessment is of a larger site, since the land to the east is included in it;
 - the assessment is based on 'likely capacity', when it has to be based on the actual existing planning use of the land which is being enforced against;
 - the assessment fails to take into account the lawful use identified by the Council, including by exempt organisations;
 - the infrastructure being enforced against is the current infrastructure rather than any more which is said to be necessary; and
 - traffic movements must relate to the use being enforced against.
- 1.24. The SoM refers to more details regarding the Grounds of Appeal, and for brevity reasons these are not repeated here (but will be referred to later in this report as well as in the Proofs of Evidence and other submission).

LPA Questionnaire

- 1.25. The LPA issued its Questionnaire to the Appellant on 22nd February 2023. This is not appended as it has been supplied to all parties.

Request for Withdrawal

- 1.26. The LPA was invited to withdraw the EN based on the SoM, but it declined to do so in an email dated 3rd March 2023 (copy enclosed in Appendix 5). This is following receipt of legal advice taken by the LPA.
- 1.27. The Appellant is considering a costs application against the LPA for pursuing an Appeal where there are significant errors resulting in the EN being a nullity, as identified above.

Corrections to the Regulation 37 Notice

- 1.28. On 6th March 2023, the LPA issued 'corrections' to the Regulation 37 Notice referred to above. A copy of the letter is found enclosed in Appendix 6.
- 1.29. The corrections sought to correct two errors:
 - Error one. The Notice text set out in Section 1 was replaced with the following one:



"1. THIS IS A FORMAL NOTICE is issued by the Council under Regulation 37 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 in connection with the Council's Enforcement Notice dated 04/11/2022 in respect of the land at Gundry's Farm, School Lane, Three Legged Cross, Wimborne, Dorset, shown edged red on the attached plan, in connection with the alleged breaches of planning control."

This change sought to rectify which Notice the Regulation 37 Notice referred to, being the one issued on 4th November 2022 instead of the one issued on 24th March 2021.

- Error two.

"DIRECTIONS

In accordance with Regulation 38, and as a person on whom the notice has been served, you may, within 3 weeks beginning with the date this notice is served on you, apply to the Secretary of State for a screening direction and the following shall apply—"

- 1.30. The Appellant Is obtaining legal advice on the validity of these corrections, noting that the latter removes any reference to a Screening Opinion which, If available, might have clarified how the LPA determined that the alleged development subject to the EN was EIA Development.
- 1.31. PINS Issued a start letter on 10th February 2023, confirming that the Appeal Is valid on Grounds (a), (b), (c), (d), (f) and (g) as applied for by the Appellant (copy of letter found in Appendix 7). The letter also confirmed that the Appeal would be dealt with procedurally as an Inquiry.

Request for Extension of Time to Prepare a Comprehensive SoC

- 1.32. On 20th March 2023, the Appellant's representatives requested an extension of time to prepare the SoC (see Appendix 8). This request was made without prejudice to the Appellant's ability to obtain legal advice regarding this change, but equally on the basis that the Appellant may now need to submit an Environmental Statement (an "ES") to support their Appeal on Ground (a) – deemed planning application.
- 1.33. The ES can only be prepared once the relevant baseline data, including relevant ecological surveys, can be collected. This Is limited by seasonal factors, in particular, in relation to Damselfly, a species relevant to nearby European Sites as cited by the LPA (comprising a Special Areas of Conservation or "SAC" and a Special Protection Area, or "SPA"). Guidance on Damselfly confirmed that *"transects should be carried out during the peak adult flying period, between early June and end of July"*, according to the British Dragonfly Society's Southern Damselfly Management Handbook Page 14 (see Appendix 9). It would not be possible to adequately carry out an assessment without conducting surveys, which would enable the Appellant to complete the relevant documentation for the deemed planning application itself made under the Appeal Ground (a).



- 1.34. The Appellant awaits the Inspector's response to their request; however, this 'interim' SoC has been prepared to meet the current assigned deadline for submission, which is 24th March 2023. The Appellant is seeking legal advice in this matter, and we reserve the right to update the SoC when in receipt of the surveys and a completed ES.
- 1.35. The Appellant will pursue a costs application against the LPA for the alterations to the Regulation 37 Notice, which amounted to a wasted expense.

Expediency to Enforce Report

- 1.36. The LPA has provided a copy of their Expediency to Enforce Report. This is an officer report setting out the reasons why the LPA considers that it is expedient to take enforcement action under TCPA Section 171. The report can be found in Appendix 10.
- 1.37. This is discussed again in the following sections and in the Proofs of Evidence. A copy of the Appendices has not been received (perhaps due to IT issues) and a further copy of this will be requested from the LPA to refer to in the Proofs.

Definitions

Definition of a 'Caravan Site' and 'Caravan'

- 1.38. The House of Lords decision in 'Wyre Forest 1990' [Wyre Forest District Council and SoS and Other, 1990 [2 A.C. 357]], dealt with a permission for the use of land as a caravan site in which the council objected. The case considered the definition of a 'caravan site' and a 'caravan' and examined a case of whether a chalet was a 'caravan'.
- 1.39. Bridge L.J. states at Page 368, Part F:
"My Lords, I have to say that none of the foregoing observations dissuade me from the view that the terms 'caravan' and 'caravan site', when used at any time since D-Day [being the commencement of the Caravan Sites and Control of Development Act 1960, which defined both terms in statute] in any formal document under the Planning Acts, prima facie have the meaning which they are given by the Act of 1960 as amended."
- 1.40. The case was allowed with the Council paying the appellant's costs. It is clear from this decision that applications made under the TCPA for caravan site adopt the definition of a 'caravan site' and a 'caravan' as set out in the Caravan Sites and Control of Development Act 1960 (the "1960 Act").

Definition of 'Caravan Site'

- 1.41. Section 1(4) of the 1960 Act provides the definition of a 'caravan site' as follows:
"the expression 'caravan site' means land on which a caravan is stationed for the purposes of human habitation and land which is used in conjunction with land on which a caravan is so stationed."
- 1.42. Planning control adopts the same definition arising from the 1960 Act, as set out in Section 336 (Interpretation) of the TCPA. Section 336 states:



"In this Act, except in so far as the context otherwise requires and subject to the following provisions of this section and to any transitional provision made by the Planning (Consequential Provisions) Act 1990, 'caravan site' has the meaning given in section 1(4) of the Caravan Sites and Control of Development Act 1960."

- 1.43. A 'caravan site' is statutorily defined in both planning and licensing terms. There are elements of caravan site which are used for the stationing of caravans, and areas which are used for ancillary purposes such as the roadways, private garden areas, service areas, car parking, open space and recreation areas, storage, caravan sales, etc.

Definition of 'Caravan'

- 1.44. Section 29 of the 1960 Act provides the definition of a 'caravan' as follows:

"'caravan' means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include—

(a) any railway rolling stock which is for the time being on rails forming part of a railway system, or

(b) any tent;"

- 1.45. The definition of a 'caravan' in section 29 above was amended by section 13 of the Caravan Sites Act 1968 (the "1968 Act") to cover 'Twin-unit caravans'. Section 13 of the 1968 Act was amended by 'The Caravan Sites Act 1968 and Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendment) (England) Order 2006'. The definition of a 'caravan' is now therefore as follows:

"(1) A structure designed or adapted for human habitation which—

(a) is composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices; and

(b) is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer), shall not be treated as not being (or as not having been) a caravan within the meaning of Part I of the M1 Caravan Sites and Control of Development Act 1960 by reason only that it cannot lawfully be so moved on a highway when assembled.

(2) For the purposes of Part I of the Caravan Sites and Control of Development Act 1960, the expression "caravan" shall not include a structure designed or adapted for human habitation which falls within paragraphs (a) and (b) of the foregoing subsection if its dimensions when assembled exceed any of the following limits, namely—

(a) length (exclusive of any drawbar): 65.616 feet (20 metres);

(b) width: 22.309 feet (6.8 metres);

(c) overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 10.006 feet (3.05 metres)."



- 1.46. For planning purposes, both the TCPA and GPDO each adopt this singular definition of a caravan.
- 1.47. The definition within the 1960 Act includes all types of caravans as being the same and interchangeable, including touring caravans, static caravans and park homes.
- 1.48. Therefore, a planning permission (or a lawful existing use) for the siting of caravans is a use of land, and not in itself operational development. Unless restricted or controlled by condition, caravans can normally be sited anywhere within an area covered by a planning permission/existing lawful use. The layout of a site, the caravan types that can be sited there, and the maximum numbers of caravans that can be sited can only be restricted by condition as they are normally permitted development as required by the CSL.

Interrelationship between Planning and Licensing for Caravan Sites

- 1.49. A dual control system exists between the TCPA and the 1960 Act. The conventional differentiation applied is that planning permissions should be issued mainly on the basis of the principle of the use of the land as a caravan site and its external effects, and that site licences should be concerned with internal arrangements of the caravan site which affect only the users of the site and are primarily concerned with health and safety. Planning permissions could restrict the nature of the internal arrangements where it is considered necessary to mitigate against external effects of a caravan site.
- 1.50. The licensing process, using model standards, would normally dictate the precise layout and spacing of individual caravans; the requirement for infrastructure (including drainage and sanitation), ancillary development; and other features of the caravan site, in the absence of control via a planning permission.
- 1.51. Schedule 2, Part 5 of the GPDO covers permitted development at caravan sites and recreational campsites. Class B states that the following is permitted development: *"Development required by the conditions of a site licence for the time being in force under the 1960 Act"*.
- 1.52. Under normal circumstances, the roads, paths, hardstanding and other necessary infrastructure (including the laying out of recreational space) are covered by the site licence and would be permitted development should the site licencing require such features (we discuss below the exception, which is relevant to this case).

The General Permitted Development Order

- 1.53. The GPDO provides by national grant of planning permission for certain forms of development without having to make a planning application, known as "permitted development rights" or "pd rights".
- 1.54. With respect to a caravan site, the main permitted development rights are found In Schedule 2, Part 5. These are separated into 'classes' and Classes A, B and C are relevant.



Class A – use of land as caravan site

A. Permitted development

The use of land, other than a building, as a caravan site in the circumstances referred to in paragraph A.2.

A.1 Condition

Development is permitted by Class A subject to the condition that the use is discontinued when the circumstances specified in paragraph A.2 cease to exist, and all caravans on the site are removed as soon as reasonably practicable.

A.2 Interpretation of Class A

The circumstances mentioned in Class A are those specified in paragraphs 2 to 10 of Schedule 1 to the 1960 Act (cases where a caravan site licence is not required), but in relation to those mentioned in paragraph 10 do not include use for winter quarters.

Class B – development on caravan site required by conditions

B. Permitted development

Development required by the conditions of a site licence for the time being in force under the 1960 Act.

Class C – use of land by members of certain recreational organisations

C. Permitted development

The use of land by members of a recreational organisation for the purposes of recreation or instruction, and the erection or placing of tents on the land for the purposes of the use.

C.1 Development not permitted

Development is not permitted by Class C if the land is a building or is within the curtilage of a dwellinghouse.

C.2 Interpretation of Class C

For the purposes of Class C, “recreational organisation” means an organisation holding a certificate of exemption under section 269 of the Public Health Act 1936 (power of local authority to control use of moveable dwellings) ¹.

The EIA Regs

- 1.55. These will be covered in the updated Statement of Case following the LPA's 'corrections' to the Reg 37 Notice, as it was not possible to consider these in full given the late notice provided by the LPA.

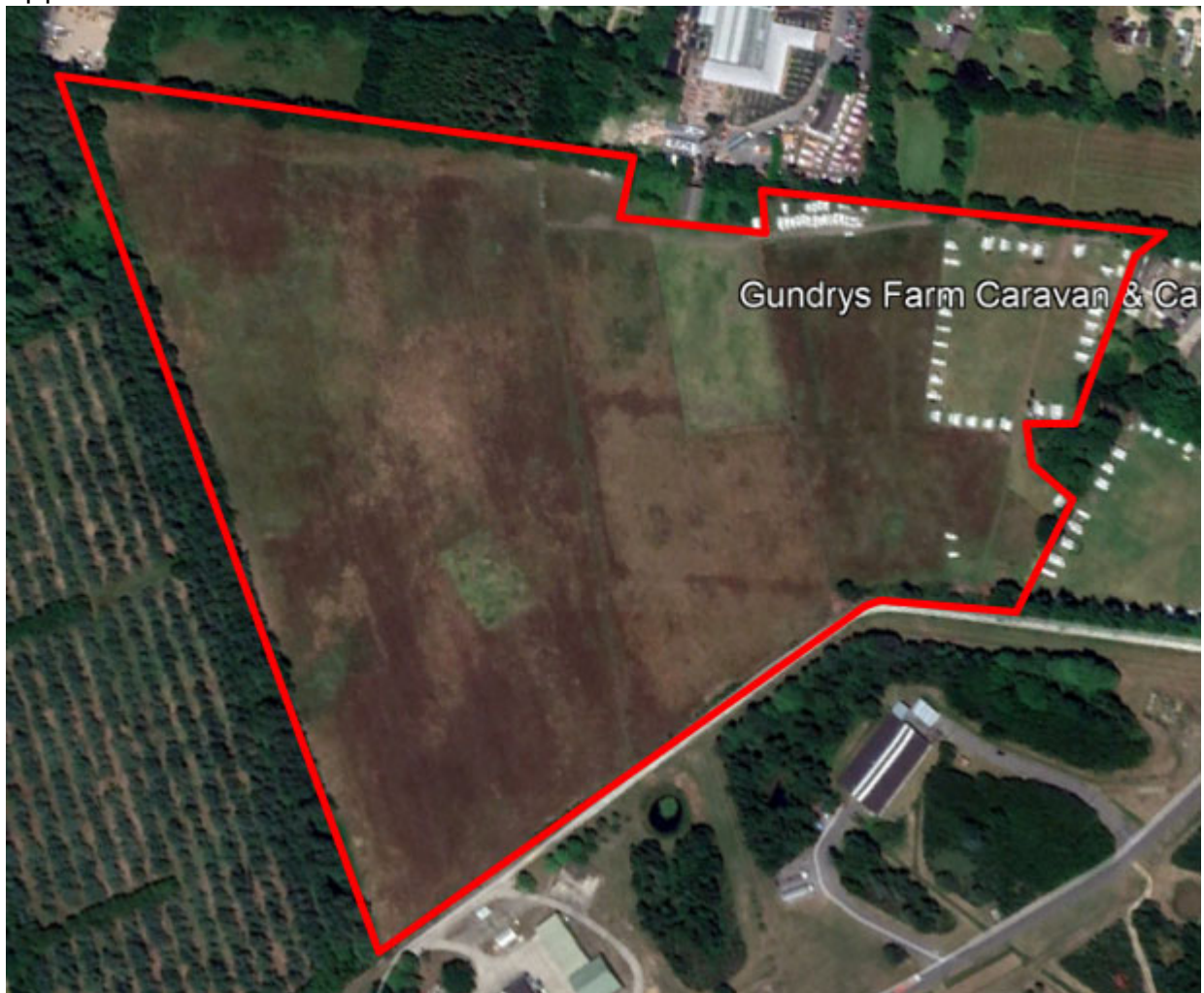


2. The Site, Surroundings and Planning History

- 2.1. The purpose of this section is to describe the site, the surroundings, and the planning history, which will be expanded upon in the Proofs of Evidence.
- 2.2. The Appeal site and the surrounding area of New Forest Court comprise a single land ownership, under the Appellant's Freehold, with the title register DT9807. An unofficial copy of the Title Register and Plan is provided with this Statement In Appendix 11, whilst an Official Copy of the Title Register and Plan will be provided with the Proofs of Evidence.

The Appeal Site

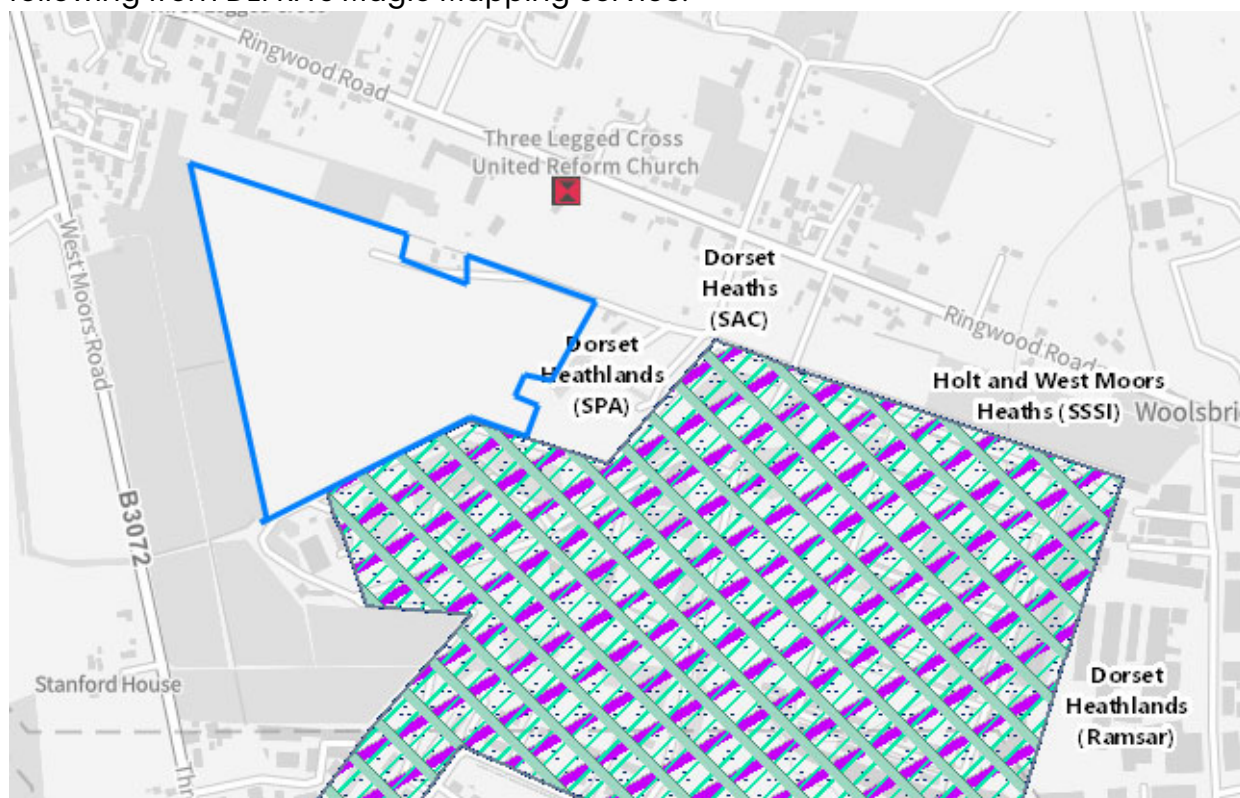
- 2.3. The Appeal site can be described the western part of an existing caravan park comprising roughly 15ha in a roughly trapezoidal shape where the eastern end of the site is narrow and the western end less so. This can be seen in the latest aerial photograph. The red edging has been added by Laister Planning to show the approximate location of the Enforcement Notice area.



- 2.4. The western ends of the site are a single large field. A significant roadway traverses much of the northern end of the site, which provides access to the site from the wider caravan site.
- 2.5. The eastern ends of the site are grass areas which appear well maintained and include significant pieces of infrastructure which are normally found as part of a caravan site.
- 2.6. In both areas, some of the grass has been depressed or scarred from the stationing of touring caravans on the land.
- 2.7. Various fencing elements divide the parts of the site.
- 2.8. A number of buildings can be found at the northern end of the site. These Includes toilet and shower blocks, animal shelter, etc some of which Is subject to the EN.
- 2.9. There Is mature vegetation along parts of each boundary of the site (i.e. along the southern, western, eastern and northern boundaries).
- 2.10. Photographs of the site will be provided with the Proof of Evidence, along with aerial photographs.

The Site Designations

- 2.11. The Appeal Site is not subject to any environmental designations, as taken from the following from DEFRA's Magic Mapping service:



(the blue line was added by Laister Planning to roughly depict where the site is located).

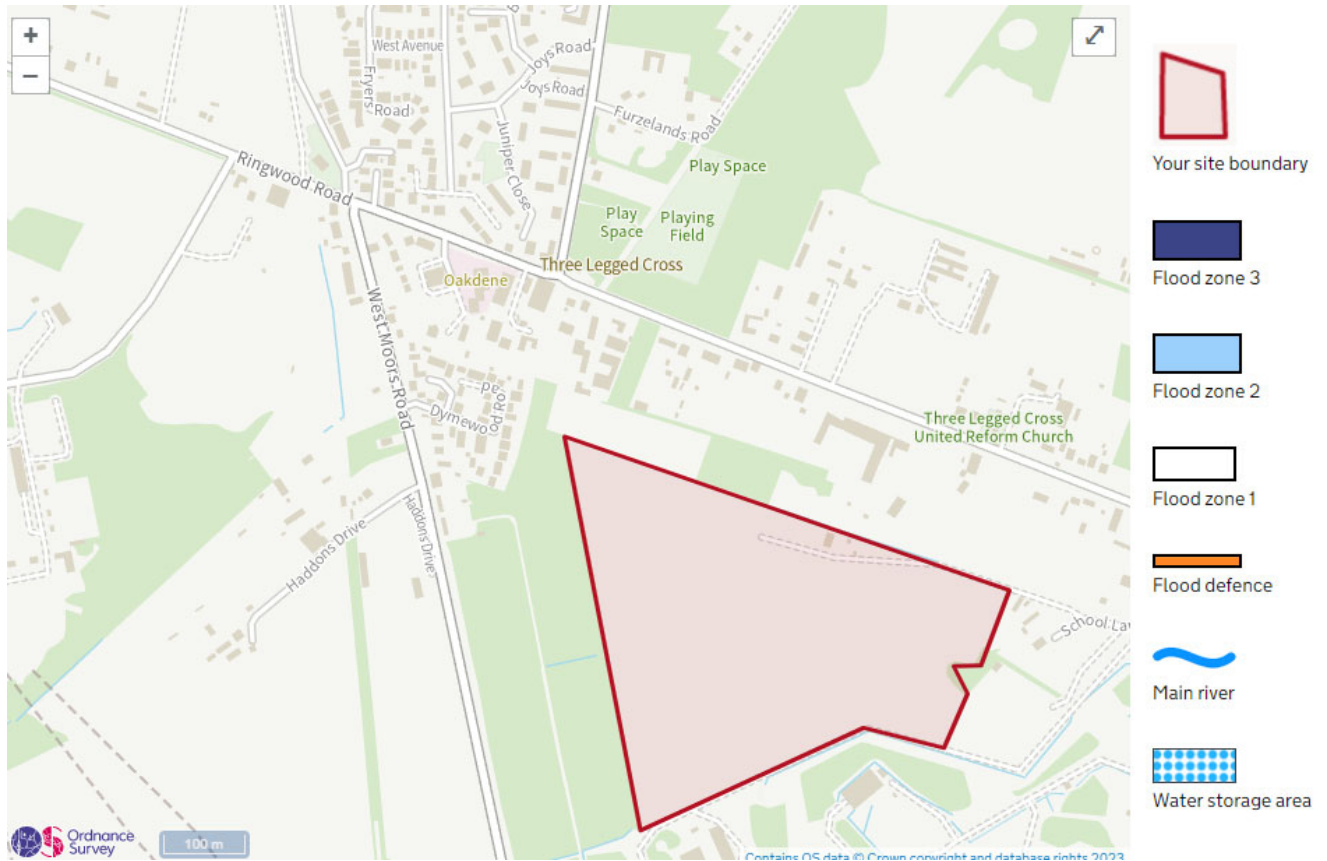
- 2.12. It Is adjacent to the Dorset Heathlands Special Protection Area ("SPA"), the Dorset Heaths Special Area of Conservation ("SAC"), the Dorset Heathlands RAMSAR and the Holt and West Moors Heath Site of Special Scientific Interest ("SSSI") as noted by the



cross hatchings.

2.13. A listed building is located to the north of the site.

2.14. According to the Environment Agency's Flood Map for Planning service, the site is located in Flood Zone 1:



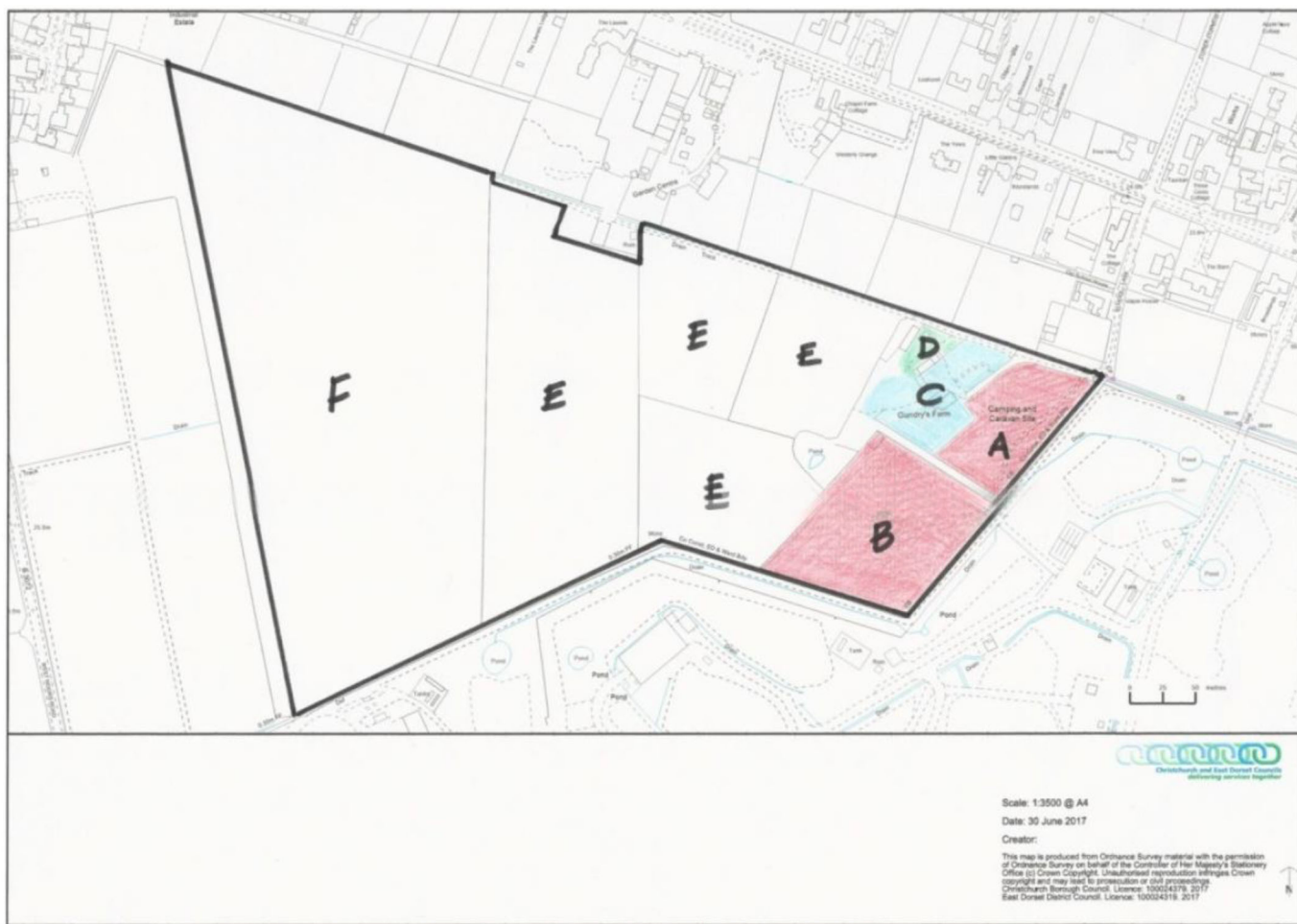
2.15. In terms of Local Plan designations, the site is located within the Green Belt, according to the East Dorset Local Plan 2002 (as saved) Policy Map Inset for West Moor and Three Legged Cross, as follows:





- 2.16. It is also within the 400m consultation zone for the aforementioned SSSI.
- 2.17. Finally, the Council describe the site In a 2017 officer's report as follows, which we have adopted:





- 2.18. The Appeal site comprises 4no parcels labelled 'E' and another parcel that is labelled 'F'. The surrounding parts of the caravan site are discussed below (labelled Areas A-D).

The Surroundings

- 2.19. The site is located immediately adjacent to other parts of New Forest Court (Gundrys Farm) Caravan Site. The Appeal site borders onto Area 'D', which is a lawful caravan storage area, Area C, which is associated with a lawful dwelling house, and Areas 'A' and 'B', which are lawful caravan site areas. They are used as lawful caravan sites, with hook up points, and other infrastructure. It is understood that the toilet facilities are located in Area C of the site.
- 2.20. The access to the entire site is via School Lane, located at the north-eastern end of the land ownership.
- 2.21. Immediately north of the site, where there is an 'indent' along the black line that can be seen in the above plan, is a building and land associated with a garden centre.
- 2.22. To the east and south is a military installation. To the north, there is a single dwelling located along School Lane as well as some agricultural fields. Beyond this, School Lane, the site's access, leads to the B3072 Ringwood Road, which runs roughly north east to south west, and hosts a series of parcels containing either residential or commercial properties. The B3072 Ringwood Road leads to the main part of Three Legged Cross to the north-west of the Appeal site.

- 2.23. To the west of the site is a woodland plantation, and beyond is agricultural fields.
- 2.24. Various settlements are dotted around this area, including West Moors and Ferndown to the south, Verwood to the north of Three Legged Cross, and St Leonard and St Ives to the east, all of which contain significant services and facilities to support the various communities in the area.

The Existing Development in Breach of Planning Control

- 2.25. The existing development is described in the EN, as referred to in Section 1. This is an alleged change of use to a caravan site from a mixed use agricultural use and caravan site for exempt organisations. This cannot be readily identified from any aerial photographs, but the state of the site as of July 2022 can be seen in the following aerial photograph, taken from Google Earth on 8th July 2022:



- 2.26. The EN also refers to operational development, which cannot be readily seen from the aerial photograph.
- 2.27. Additional aerial photographs will be referred to in later sections of this report as well as the Proofs of Evidence.

Planning History

- 2.28. The following is a brief summary of the key planning history for the site. This will be expanded upon in the Proofs of Evidence.
- 2.29. Few of the decisions apply to the Appeal site, but in fact apply to the wider New



Forest Court site.

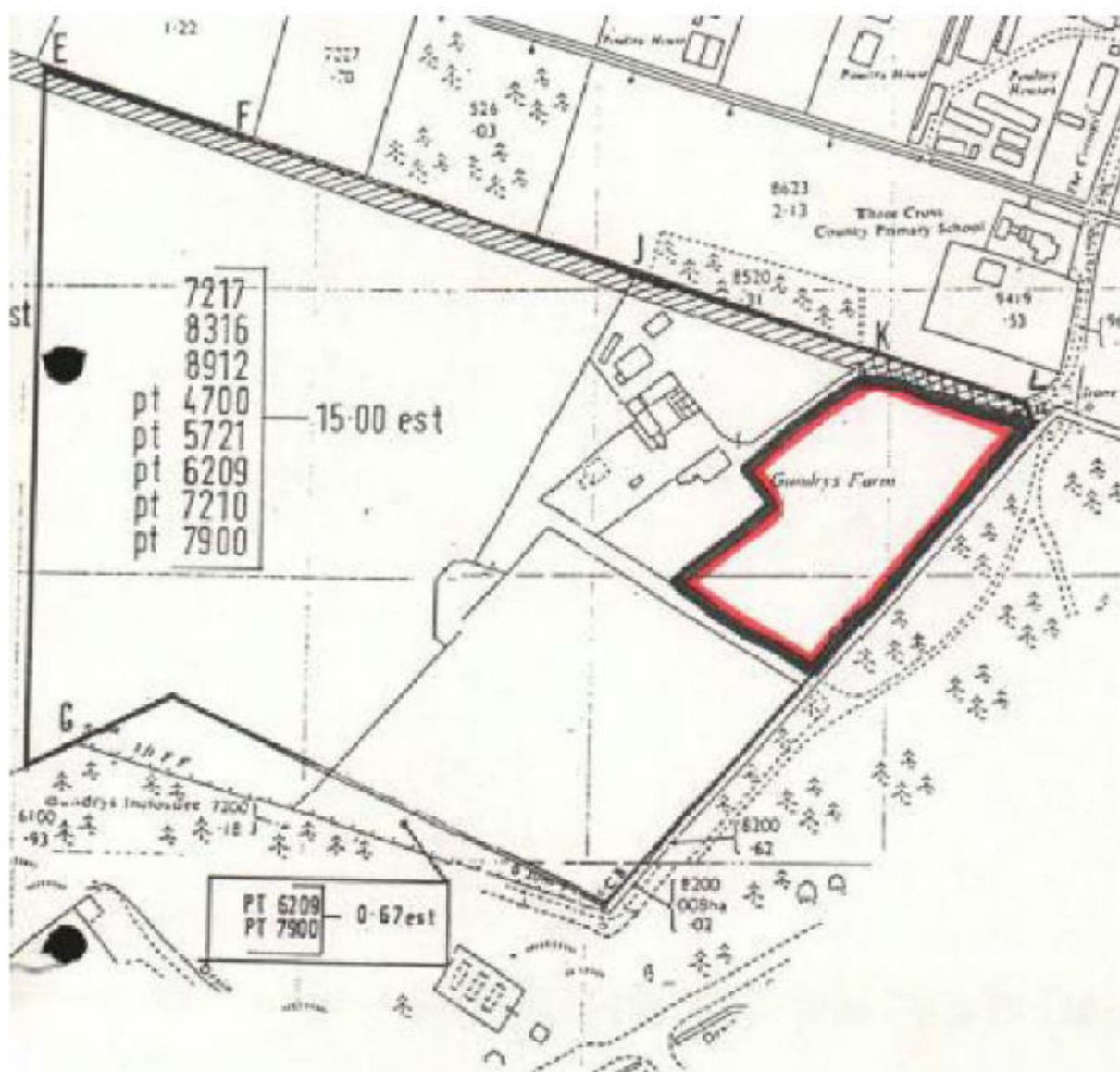
- 2.30. The Appellant does not hold all of the planning history and has submitted a request for additional documentation associated with the site. Additional history records will be provided with the Proofs of Evidence.

The 1997 Lawful Development Certificate ("LDC")

- 2.31. Area A: 1997 LDC(Ref: 96/9024): An LDC was issued on 4th March 1997 under Town and Country Planning Act 1990 (TCPA, as amended) Section 191 (S191) for an existing use of part of Gundry Farm's caravan park as follows:

- 2.32. The First Schedule states: *"Between the period from Easter to the end of September each year use as a caravanning and camping site for up to 24 caravans and tents (24 in total making no distinction between caravans and tents) without the benefit of planning consent."*

- 2.33. The area covered by the LDC is understood to be as follows:



- 2.34. A copy of this decision can be found In Appendix 12.



The 2010a LDC

- 2.35. The 2010a LDC (Ref: 10/0135): An LDC was issued under TCPA S191 on 23rd February 2010 for the area marked 'D' in the above key plan which confirms an existing use as: *"The use of the land for the stationing of up to 25 caravans for storage purposes only, the use having been established over a period of not less than 10 years."*
- 2.36. A request has been made to obtain the planning history to determine if the storage use is a separate use to the wider caravan site, or an ancillary use where the storage of units is directly associated with the caravan site.
- 2.37. A copy of this decision can be found In Appendix 13.

The 2010b LDC

- 2.38. The 2010b LDC (Ref: 10/0136): An LDC was issued under TCPA S191 on 20th April 2010 for the land marked 'B' for the following existing use: *"Development in the form of 12 (twelve) electricity hookup points, the development having been in existence for more than 4 years as of the application date."*
- 2.39. The hook-ups were determined to be operational development, and were installed on site without the benefit of planning permission (because a site licence was not available for the site).
- 2.40. A copy of this decision can be found In Appendix 14.

The 2010c LDC

- 2.41. The 2010c LDC (Ref: 10/0137): An LDC was issued on 28th May 2010 under TCPA S191 for the following existing use of Area 'B' of the Key Plan: *"The use of the land as a campsite for up to 30 caravans, tents and motorhomes (30 in total making no distinction between caravans, tents and motorhomes) between Easter and 30 September of each year only."*
- 2.42. The 2010c LDC and the 1997 LDC together appear to be the primary operative LDCs for the eastern parts of the caravan site.
- 2.43. A copy of this decision can be found In Appendix 15

The 2011 LDC

- 2.44. The 2011 LDC (Ref: 11/0393): An LDC was issued on 1st June 2011 under TCPA S191 for the use of area C as residential curtilage of the farmhouse.
- 2.45. A copy of this decision can be found In Appendix 16.

The 2017a LDC Refusal

- 2.46. 2017a LDC Application (Ref: 17/1464/CLP): The LPA refused to grant an LDC for a proposed use under TCPA Section 192 on 07/09/2017 for: *"the use of the land edged red on the application plan for the siting of up to 54 caravans throughout the year for the purposes of human habitation."*
- 2.47. A copy of the Decision Notice and Officer's report can be found in Appendix 17.
- 2.48. This application was refused by the LPA on 7th September 2017 and an Appeal against the refusal was dismissed on 1st October 2018 (Appeal Ref:



APP/U1240/X/17/3186342, see Appendix 18) as it would cause a material change of use by way of changes in traffic, on site appearance (including introducing domestic paraphernalia and hardstanding), visual impact which would be a materially different use to the lawful use.

2.49. The High Court under CO Ref CO/4467/2018 refused permission for a Planning Statutory Review of the Inspector's decision for the following reasons:

Permission is hereby refused.

Reasons:

1. Ground 1 is unarguable. The Inspector was unarguably entitled to treat the application as being for a use of caravans for human habitation throughout the year, not restricted to such a use (if it be such) while their occupants were on holiday. The Inspector was equally unarguably entitled to conclude that the CLEUDs, which had been granted for use of the land "as a caravanning and camping site", and "as a campsite" including the use of caravans for that purpose, in the summer months, were limited to use of the land for holiday activities (given the ordinary meaning of such terms). Whether such a change to such an unrestricted use would involve the making of a material change of use was then a question of planning judgment for the Inspector.
2. Ground 2 is likewise unarguable. In considering whether or not such a change would involve the making of a material change of use the Inspector was unarguably entitled to use his planning judgment as to the likely effects in terms of traffic movements, the number of vehicles on the land, residential paraphernalia etc.

2.50. A copy of the High Court Decision relating to this is supplied in Appendix 19. A copy of the evidence submitted for the challenge, including the grounds of Appeal, are not readily available. Any documentation associated with this will be provided with the Proofs of Evidence.

The 2017b LDC Refusal.

2.51. 2017b LDC Application (Ref: 17/2370/CLE): the LPA refused to grant an LDC for an existing use under TCPA S191 on 7th November 2017 for: *"Use of the land for the siting of up to 100 caravans from Easter to the end of October". The reason was: "The Applicant has failed to provide the Council with sufficient evidence to establish that the land described in the Second Schedule and as edged red has been used continuously for the purposes subject of the development as described in the First Schedule for the past 10 years."*

There is no record of an Appeal made against this refusal on the LPA's website.

The 2021a LDC Application

2.52. The 2021a LDC Application (Ref: P/CLP/2021/04164) for 'the use of land as a caravanning and camping site for up to 24 caravans in hatched area and as a campsite for up to 30 caravans in the area cross hatched on the plan) was refused by the LPA as not being lawful on 31st October 2022. A copy of the Decision Notice can be found In Appendix 20.

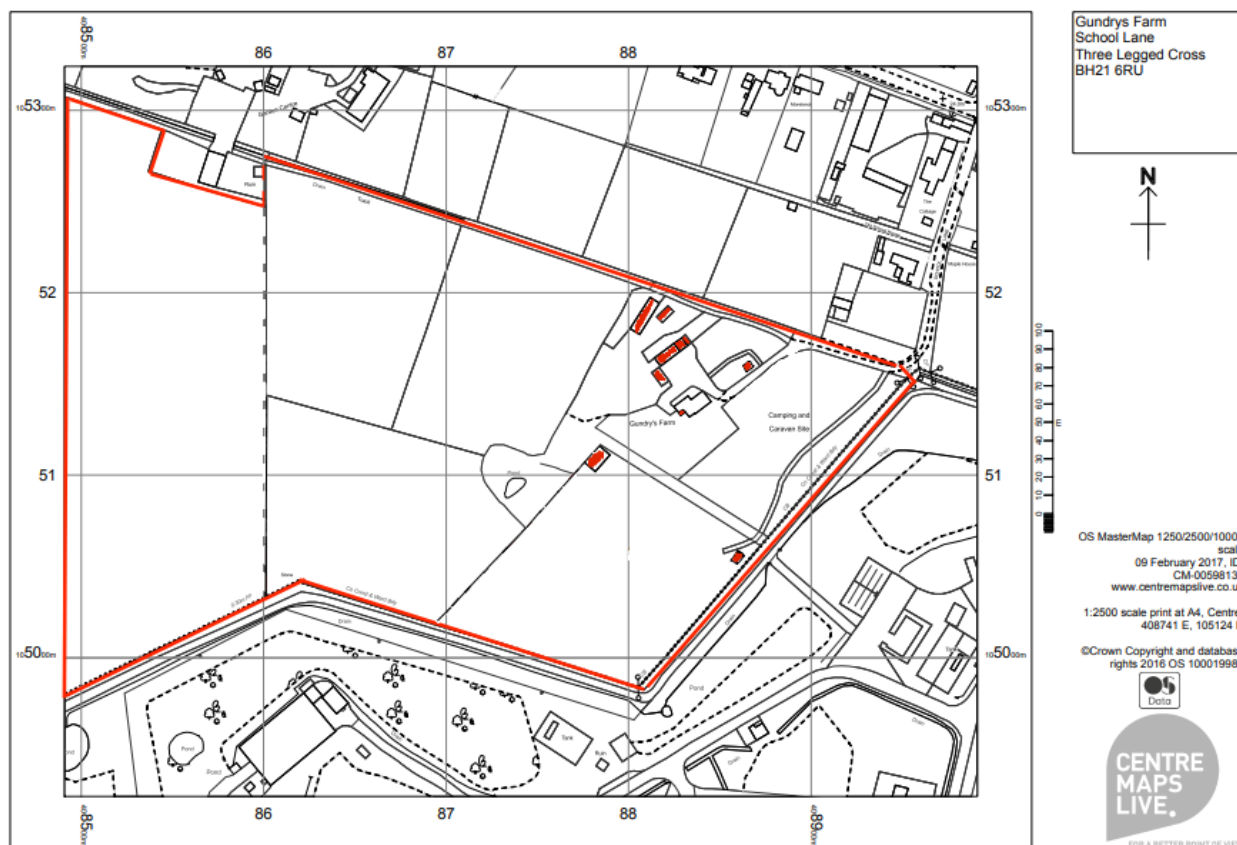
2.53. No record of an Appeal has been listed on the Council's website.

The 2021b LDC Application



2.54. An application for an LDC for "Ancillary buildings have been on site for over 4 years as facilities for the camp site and the use of land has been established as a caravan site in excess of 10 years." This covered the following area:

2.55. The location plan for this is as follows:

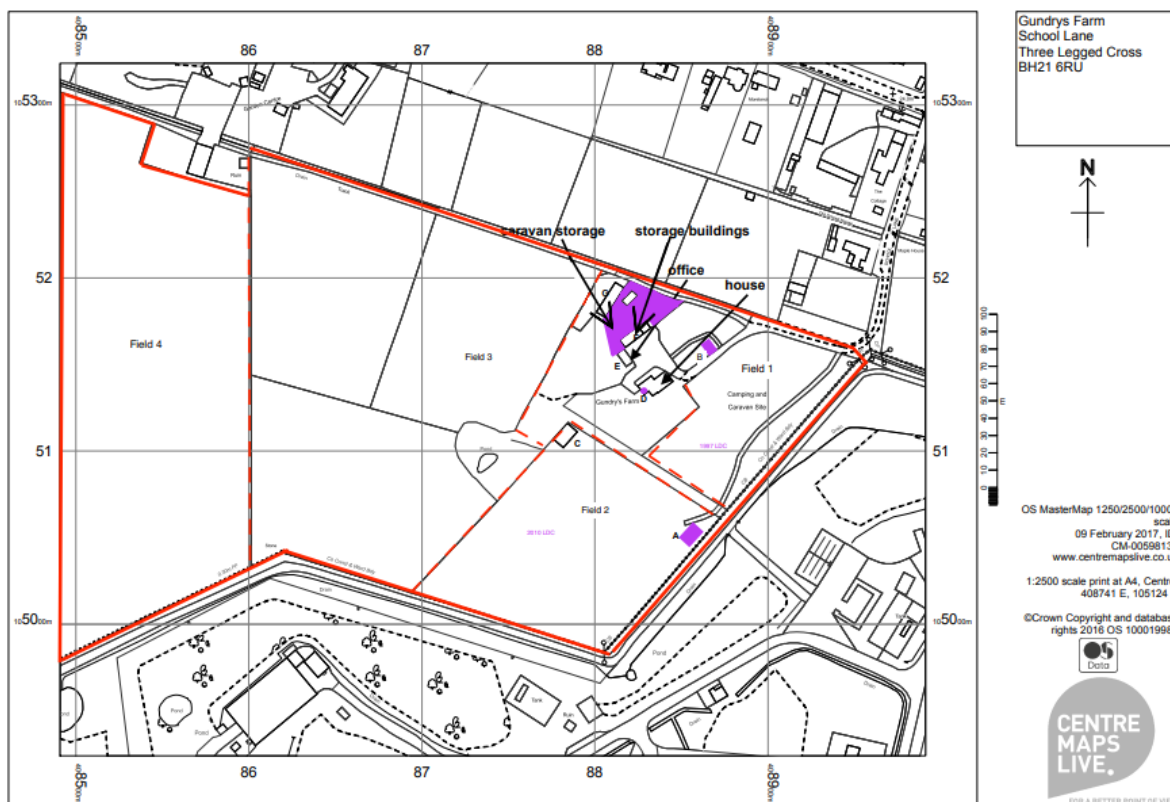


2.56. The application has not yet been determined. Any discussion on this will be made in the Proofs of Evidence once more details regarding the status of the application has been explored with the LPA and agent.

2022 LDC

2.57. The 2022 LDC application (Ref P/CLE/2022/05407) for "Mixed use of land as a Caravanning and Camping Site in Fields 1 and 2 from Easter to 30 September, ancillary buildings together with Camping and Caravanning uses from Easter to 30 September and Agricultural use in Fields 3 and 4" is currently awaiting determination. The area of the application is as follows:





2.58. We are discussing this with the Agent. Further information will be provided with the Proof of Evidence.

The Enforcement Notices

2.59. The LPA has Issued three Enforcement Notices and two Planning Contravention Notices ("PCNs"). A brief summary of the ENs can be found as follows. Further information, including details and copies of the supporting documentation on the ENs and the PCNs will be provided as part of the Proofs of Evidence

The 2018 EN

2.60. An EN was Issue under Ref ENF/17/0094 (the LPA has used the same reference to various Enforcement Notices) on 14th November 2018. This covered the entirety of the ownership. For brevity reasons, the Notice's allegations are not listed here, but can be reviewed with the copy provided In Appendix 21.

2.61. An Appeal was made by the Appellant, under Ref APP/U1240/C/18/3218259.

2.62. The documentation associated with this Notice will be provided with the Proofs of Evidence.

2.63. However, it Is noted that In Mr David Lloyd's Proof of Evidence (Mr Lloyd being a Council planning officer who was to defend the Issuance of the Notice), he confirms that the whole of New Forest Court (Gundrys Farm) was at the time under single ownership and that *"there Is no division of the land making a distinction of ownership or operation."* (Paragraph 26 of David Lloyd Proof of Evidence - see Appendix 22).

2.64. In the following paragraph, Mr Lloyd states:

The land is a single planning unit, falling within criteria (1) or (2) by reference to *Burdle v SSE* [1972].

(1) Wherever 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 should be considered.

(2) It may be equally apt to consider the entire unit of occupation even though the occupier carries out a variety of activities and it is not possible to say that one is incidental or ancillary to another. This is well settled in the case of a composite use where the component activities fluctuate in their intensity from time to time but the different activities are not confined within separate and physically distinct areas of land.

(3) However, it may frequently occur that within a single unit of occupation two or more physically separate and distinct areas are occupied for substantially different and unrelated purposes. In such a case each area used for a different main purpose (together with its incidental and ancillary activities) ought to be considered as a separate planning unit.

2.65. We come to this again later, but this provides evidence that the lawful caravan site and the Appeal site form a singular entity.

2.66. Indeed, In Ms Elizabeth Adams's Proof of Evidence (Ms Adams Is a senior planning officer at the Council), she acknowledges at Paragraph 10 that: "*Unhindered pedestrian access Is provided within the site between the different areas with the exception of the westernmost field. Movement between the areas Is encouraged by signage to the ablution blocks and dog walking and exercise areas. The only area that was Identified by signage as private on the date of my visit was the storage area north of the office and workshop buildings, although the dwelling also benefits from fencing to demarcate a private space.*"

2.67. A copy of Ms Adam's Proof of Evidence can be found In Appendix 23.

2.68. Indeed, the Inspector's preliminary note Inviting the LPA to withdraw the 2018EN states: "



2.→There is no question that the appeal site is a single planning unit; that is common ground. It is therefore necessary if alleging a material change of use to identify if it is in a single primary use or a mixed use. Not to do so makes it impossible to assess whether there has been a material change of use as a result of the further development that has taken place.¶

3.→Paragraph 56 of Mr Lloyd's proof confirms that it is in a single primary use.¶

2.69. There are other reasons set out in the Preliminary Note inviting the LPA to withdraw the 2018EN as it was a nullity. A copy of this note can be found in Appendix 24.

2.70. The 2018EN was withdrawn by the LPA and no longer exists. Costs were awarded against the LPA for the withdrawn Notice.

A 2020EN

2.71. A 2020EN was Issued but withdrawn after it was incorrectly serviced (details found in the LPA's Expediency Report, referred to below). Laister Planning does not hold a copy but this will be provided with the Proofs of Evidence.

The 2021EN

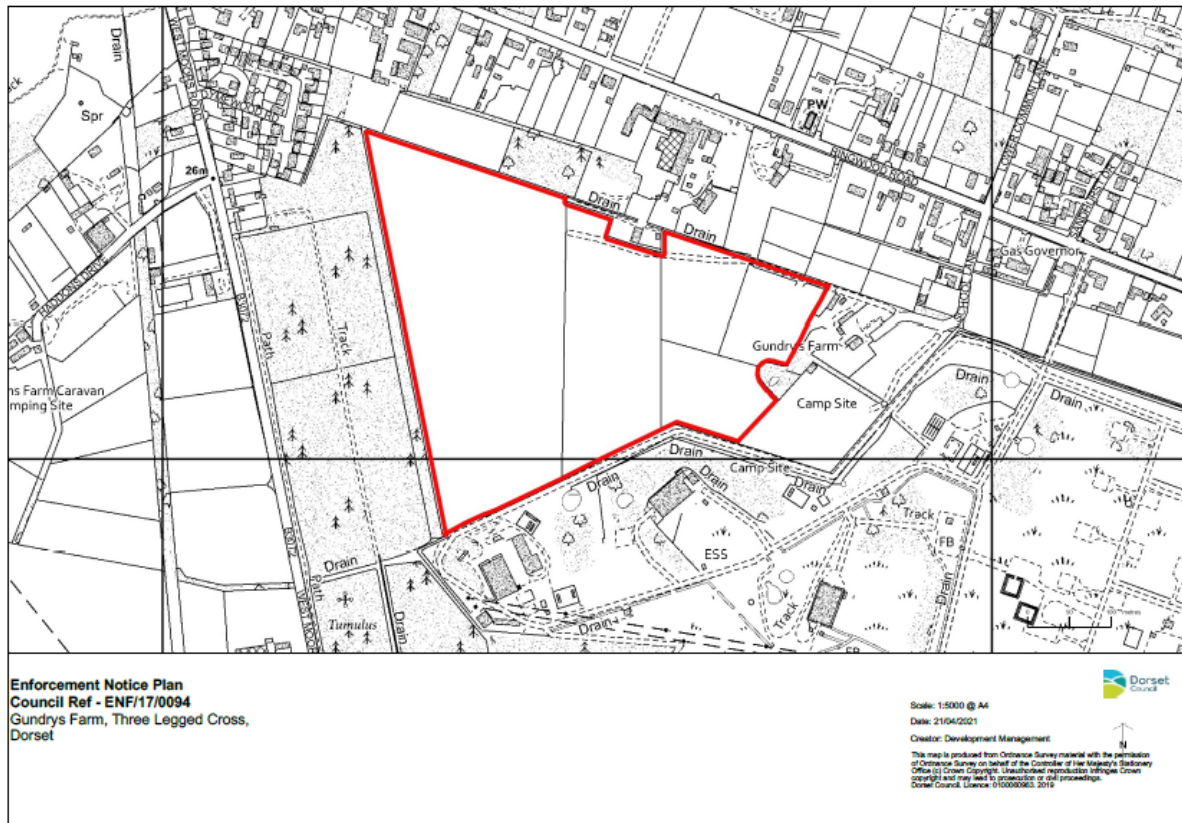
2.72. The LPA Issued an Environment Notice on 21st April 2021, under the same reference: EN/17/0094. This alleged the following:

3. THE BREACH OF PLANNING CONTROL ALLEGED

Without planning permission the material change of use of agricultural land edged red on the attached plan, to a mixed use of agriculture and the stationing of caravans, motorhomes and tents for human habitation, caravanning and camping activities and comprising operational development to facilitate the caravanning and camping use, namely toilet/shower buildings with ramp/decking access and septic tanks, water/fire safety points and electrical hookup installations.

2.73. The 2021EN Plan was as follows:





2.74. The reasons for Issuing the 2021EN were set out In the Notice, but which are not repeated here for brevity reasons. The Notice was also accompanied by a 'Regulation 37 Notice' Indicating that the alleged development was EIA Regs Schedule 2 Development.

2.75. The EN was appealed by the Appellant.

2.76. The 2021EN was withdrawn. We do not hold records for this and are seeking to obtain confirmation; however, according to the Council's Expediency Report for the 2022EN, it was withdrawn because: *"Withdrawn due to omission of caravan storage from breach and risk of underenforcing."*

The LPA's Expediency to Enforce Report

2.77. The LPA has provided a copy of their Expediency to Enforce Report. This can be found in Appendix 10.

2.78. A detailed analysis of the Report will be provided with the Proofs of Evidence.

However, It Is noted that the LPA is now alleging that there are 3 separate planning units within the site, which is in direct contrast to formal Council officer's evidence in relation to a previous Enforcement Notice, as noted above. It states:



2.4 Planning unit A is physically and functionally separated from the rest of the site:

Planning Unit A (red)

Has been used for agriculture and used in accordance with Part 5 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) 2015 and schedule 1 of the Caravan Sites and Control of Development Act 1960 Order 2015 periodically. No continuous use for another purpose has been established in this investigation or proved through the section 191 applications for area A. There are hedgerow, gates and fencing physically separating unit A from Units B and C.

Planning Unit B (green)

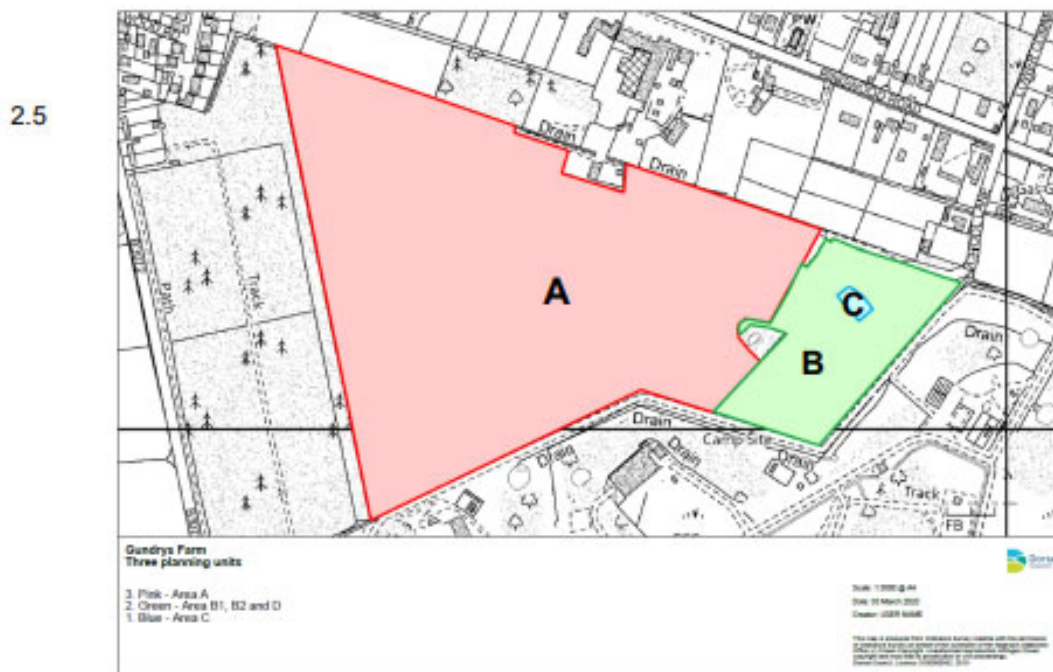
Camping and Caravanning site comprising lawful development certificates for a specified number of caravan/camping units (B1 and B2) and storage within area B3. There are pockets of land without the benefit of defined lawful uses.

Planning Unit C (blue)

Dwelling and residential curtilage

These are demarcated on the plan below.

2.79. The Plan is as follows:



2.6 The land is accessed by single road from the public highway, and internal tracks with no public access across the land. There are very few public vantage points. Observations from adjacent landowners are likely to provide more accurate information about the use of the land.

2.80. We will come to this again later in this report and in significant detail the Proofs of Evidence, including with references to where the LPA already accepted that the whole of the site was a single planning unit.



3.Planning Policy Context

- 3.1. The EN refers to a number of policies to which the LPA had due regard when reaching a conclusion to issue enforcement action. These are as follows, taken directly from the 2022EN:

The unauthorised development is therefore considered contrary to: Policies HE2, HE3, KS1, KS2, KS3, ME1, ME2, PC4 and PC6 of the Core Strategy; Saved Policy TODEV2 of the East Dorset Local Plan 2002; policies 84, 137, 148, 149, 174 to and including 182 and 185 of the National Planning Policy Framework and; Dorset Heathlands Planning Framework 2020-2025.

- 3.2. The "Development Plan" referred to are:
- the East Dorset Local Plan 2002 (as saved) (the "EDLP"); and
 - the Christchurch and East Dorset Core Strategy 2014 (the "ESCS").
- 3.3. The LPA also refers to the National Planning Policy Framework (the "NPPF", published in 2021), which is a significant material consideration (and discussed below).
- 3.4. Copies of all relevant policies can be found in Appendix 26 for the EDLP and Appendix 27 for the EDCS. The NPPF has not been appended to this statement for brevity reasons.
- 3.5. The Appellant questions whether some of the policies are relevant, and we will set out the reasons for this below.
- 3.6. It is noted that an Appeal has been made on Ground (a), which is a deemed planning application. In accordance with TCPA Section 70(2), and Planning and Compulsory Purchase Act 2004 (the "PCPA", as amended) Section 38(6), planning applications shall be determined in accordance with the Development Plan (when read as a whole) unless material considerations indicate otherwise.

The Proposals Map

- 3.7. The Proposals Map for the site was referred to in the previous section. It identified two designations: South East Dorset Green Belt and that the site was located within 400m of environmental designations.
- 3.8. We now review the Development Plan policies and other material considerations. A detailed review of policies will be provided with the Proofs of Evidence on receipt of the ES.

The Development Plan

EDLP saved Policy TODEV2.

- 3.9. This policy states:



6.273. Policy TODEV2

New sites or extensions to sites for static or touring caravans, tents, chalets or cabins for holiday use will not be permitted within the Green Belt, or where it would cause harm to the landscape character of the AONB, or Area of Great Landscape Value. Elsewhere, such development will be permitted if the following criteria are satisfied:

- a) the site is well screened from external views by means of landform or landscaping;**
- b) the development would not harm residential amenity;**
- c) any additional traffic can safely be accommodated on the local highway network;**
- d) the proposal would not harm an important wildlife habitat;**
- e) there would be no detrimental impact upon a site of archaeological importance, listed building, or conservation area;**
- f) the site is well laid out to provide adequate room for pitches and will allow for generous landscaping;**
- g) it is established that any risk of flooding is acceptable.**

3.10. This Policy seems to have a blanket ban on new sites for caravan sites for holiday use within the Green Belt. This does not appear to be compliant with the NPPF, which provides no such blanket ban, and it should be considered to be out of date.

Policy HE2 – Design of New Development

3.11. This policy states:



Policy HE2

Design of New Development

Within Christchurch and East Dorset the design of development must be of a high quality, reflecting and enhancing areas of recognised local distinctiveness. To achieve this, development will be permitted if it is compatible with or improves its surroundings in:

- Layout
- Site coverage
- Architectural style
- Scale
- Bulk
- Height
- Materials
- Landscaping
- Visual impact
- Relationship to nearby properties including minimising general disturbance to amenity
- Relationship to mature trees.

This is within the context of the Christchurch Borough Wide Character Assessment. In the East Dorset rural area, design should accord with the Countryside Design Summary. An East Dorset Urban Design Guide will set out the key characteristics expected to be incorporated into schemes. In Special Character Areas development must respect the identified features and characteristics. Careful design to reduce the risk of crime will be required.

3.12. A discussion on this policy will take place in the following section of the report.

Policy HE3 – Landscape Quality

3.13. This policy relates to Landscape Quality and states that development will need to protect and seek to enhance the landscape character of the area. Further, it provides some factors which are considered as part of assessing the effect on landscape character:



Policy HE3

Landscape Quality

Development will need to protect and seek to enhance the landscape character of the area.

Proposals will need to demonstrate that the following factors have been taken into account:

1. The character of settlements and their landscape settings.
2. Natural features such as trees, hedgerows, woodland, field boundaries, water features and wildlife corridors.
3. Features of cultural, historical and heritage value.
4. Important views and visual amenity.
5. Tranquillity and the need to protect against intrusion from light pollution, noise and motion.

Development proposals within and/or affecting the setting of the Area of Outstanding Natural Beauty will need to demonstrate that account has been taken of the relevant Management Plan.

Within the Areas of Great Landscape Value development will be permitted where its siting, design, materials, scale and landscaping are sympathetic with the particular landscape quality and character of the Areas of Great Landscape Value. Planning permission will be refused for major developments in these designated areas except in exceptional circumstances and where they are in the public interest.

Policy KS1 – Presumption In Favour of Sustainable Development

3.14. This policy refers to the presumption In favour of development. It Indicates that the Council will proactively work with applicants, and that planning applications that accord with relevant policies will be approved without delay.

Policy KS2 – Settlement Hierarchy

3.15. This policy sets out the hierarchy for settlements. It Identifies Three Legged Cross as a 'Rural Service Centre'. It provides no description for any land outside of the settlements. The policy does not, for example, indicate that the 'settlement' for the purposes of this policy equates to 'Main Urban Areas' as shown on the Proposals Map, for which part of Three Legged Cross is designated. The disconnect shall be explored further in the later section of this report and the Proof of Evidence.

Policy KS3 – Green Belt

3.16. This policy states:



Policy KS3

Green Belt

Development in East Dorset District and Christchurch Borough will be contained by the South East Dorset Green Belt. The most important purposes of the Green Belt in the area are to:

- Protect the separate physical identity of individual settlements in the area by maintaining wedges and corridors of open land between them.
- To maintain an area of open land around the conurbation.

Limited changes to the existing boundaries are proposed to enable some new housing and employment to meet local needs and also to include areas in the Green Belt that are no longer capable of providing for these needs. The revised Green Belt boundaries will follow the edge of the new urban area. Significant open space and SANGs will be within the Green Belt, and will be shown on the Proposals Maps for each individual development proposal.

In accordance with the guidance contained within the National Planning Policy Framework, development proposals on sites considered as previously developed sites within the Green Belt shall be considered against sustainable development criteria, and prerequisites for development which include:

- Approval of a development brief by the Council,
- Agreement of a comprehensive travel plan, and
- A wildlife strategy to be agreed with the Council that ensures no harm to features of acknowledged biodiversity importance, as well as enhancing the biodiversity where possible through improving the condition of existing habitats or creation of new ones.

- 3.17. It is not clear what this policy seeks to achieve with regards to Green Belt. It does not specify how sites which are not 'previously developed' are treated, where they do not seek to actually change the boundary of the Green Belt. It simply states that Development will be contained by the Green Belt, but what that is meant is not obvious.

Policy ME1 – Safeguarding Biodiversity and Geodiversity

- 3.18. This policy seeks to protect, maintain and enhance the conditions of all types of nature conservation sites, including SPAs, SACs, RAMSARs and SSSIs.
- 3.19. With regards to development, it states: "*Where development is considered likely to impact upon particular sites, habitats or species as set out within the Dorset Biodiversity Protocol, it will need to be demonstrated that the development will not result in adverse impacts.*" The Policy sets out what is required to assess the relevant effects on habitats and includes a list of criteria that will need to be addressed.
- 3.20. It states: "*In considering the acceptability of proposals, the Council will assess their direct, indirect and*
- 3.21. *cumulative impacts relative to the significance of the features' nature conservation value. National policy will be applied to ensure the level of protection afforded international, national and locally designated sites and species is commensurate with their status.*"



3.22. The details of the policy can be found In the Appendix 27.

Policy ME2 – Protection of Dorset Heathlands

3.23. This policy relates to the advice of Natural England, and states that *"no residential development will be permitted within 400m of protected European and internationally protected heathlands."*

3.24. This policy also refers to Dorset Heathlands Planning Framework Supplementary Planning Document (discussed below).

3.25. Critically, this policy refers strictly to residential development, and it does not state how tourism development will be considered with respect to the Dorset Heathlands. It is entirely unclear why this policy was cited by the LPA when there is no allegation of residential development in the EN.

Policy PC4 – The Rural Economy

3.26. This policy relates to the rural economy. It states that economic development will be controlled in the open countryside away from existing settlements. It also states that *"applications for economic development will be encouraged where development is located in or on the edge of existing settlements where employment, housing, services and other facilities can be provided close together. Such proposals should be small scale to reflect the rural character."*

3.27. As regards to land based rural businesses, it states: *"Proposals for the development and diversification of agricultural and other land-based rural businesses will be supported which meet the criteria set out in the National Planning Policy Framework and also that:*

- Are consistent in scale and environmental impact with their rural location avoiding adverse impacts on sensitive habitats, Areas of Great Landscape Value and landscapes identified through landscape character assessments and the openness of the Green Belt.
- Conserve the landscape quality and scenic beauty of the Cranborne Chase and West Wiltshire Downs AONB, and comply with the provisions of the AONB Management Plan.
- Do not harm amenity and enjoyment of the countryside through the impact of noise and traffic generation.
- That minimise additional trips on the highway network and are accessible by sustainable modes other than the car.

Subject to compliance with criteria set out above acceptable uses for rural diversification include:

- Tourism
- Leisure and related activities
- Equestrian
- Small offices
- Light Manufacturing
- Renewable energy
- Retail (farm shops and pick your own)

3.28. Other parts of the policy are not relevant as they relate to re-use of suitably constructed existing buildings.



3.29. This policy is a positively worded policy, in that it indicates what might be supported. What the policy does not state is that those schemes which do not meet the points listed in the policy would not be supported or applications for such should be refused. This is an important distinction which makes it unclear why the policy was cited as something that the alleged development is contrary to.

Policy PC6 – Tourism

3.30. This policy relates to tourism. It states that the CS will protect and enhance the unique features of the District that attract visitors to the area, whilst encouraging investment. It lists measures which will help the Council achieve this. The most relevant ones are:

- Protection of the beaches, river front and Christchurch Harbour and supporting appropriate sustainable tourist related development.
- Tourist related development must avoid increasing visitor pressure on the Dorset Heaths. Appropriate mitigation measures will be identified through the Heathlands Supplementary Planning Document and the Site Specific Allocations Development Plan Document.
- By protecting visitor attraction sites unless it can be proved the use is no longer economically viable, and promoting new visitor attractions and accommodation in sustainable locations.
- By encouraging sustainable transport to tourist and cultural sites.

3.31. It goes on to state that: *"Tourism and culture in Christchurch and East Dorset will develop in the context of the wider sub-regional strategy (Towards 2015 – Shaping Tomorrow's Tourism), by improving planning and use of resources through collaboration across Dorset, Bournemouth and Poole, which values local distinctiveness and diversity."*

3.32. The policy indicates that there is support for new visitor accommodation in sustainable locations, and that proposals must avoid increasing pressure on the Dorset Heaths.

3.33. We review the Towards 2015 – Shaping Tomorrow's Tourism below.

3.34. A discussion regarding compliance with the relevant policies will be provided in the following section and in the Proofs of Evidence.

3.35. It is noted that the LPA has not cited the following policies, which suggests that the LPA is not concerned about the impact the alleged development has on these matters:

- Policy KS11 (Transport and Development) – the LPA has not cited this policy, which indicates development will be permitted where it mitigates against negative transport impacts. Presumably this is because the LPA does not consider that there is a conflict.
- Policy ME6 (Flood Management, Mitigation and Defence) – the LPA has not cited this presumably as the site is located in Flood Risk Zone 1. The policy requires that all development demonstrate flood risk would not be increased, and presumably the LPA is also satisfied that such risk would not increase should



- the alleged development be granted planning permission.
- Policy HE1 (Heritage Assets) – there is a nearby listed building, but as the LPA has not cited this policy regarding protection of such, it can be assumed that the LPA is satisfied that there would be no material impact on the heritage asset or its setting.
- It is noted that under Chapter 11, which relates to Verwood, Three Legged Cross, etc Housing, Employment and Centres, there is nothing specific that would affect the consideration of the Ground (a) application.

Material Considerations

National Planning Policy Framework (NPPF, July 2021)

- 3.36. The NPPF is the Government's national guidance on planning matters. It is a material consideration in all planning applications. There is currently a consultation that closed regarding introducing changes to the NPPF, although it is not clear when the changes will come into effect.
- 3.37. The LPA has cited Paragraph 84, 137, 148, 149, 174 and 182–185.
- 3.38. The LPA has not cited Paragraph 81, which states "*Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.*" Significant weight should be attached to proposals for economic development, including for tourism uses.
- 3.39. Paragraph 84 indicates that decision should enable sustainable growth and expansion of rural businesses, and sustainable tourism that respects the character of the countryside.
- 3.40. Most relevant are parts a), b) and c).
- 3.41. Laister Planning also notes that Paragraph 85 is relevant, which indicates that decisions should recognise that sites that meet local business needs in rural areas may be found adjacent or beyond existing settlements, and not well served by public transport. It goes on to state that in these circumstances, development is sensitive to its surroundings, does not have an unacceptable impact on local roads, and exploits opportunity to make a location more sustainable.
- 3.42. Paragraph 137 states:
137. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
- 3.43. Paragraph 148 states:
148. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.



- 3.44. Paragraph 149 sets out a list of exceptions whereby new buildings might be considered appropriate development in the Green Belt. None of these apply.
- 3.45. Paragraph 150 also sets out a number of other forms of development that are not inappropriate in the Green Belt as long as they preserve its openness and do not conflict with the purposes of included land within it. Part b) relates to engineering operations and part e) refers to material changes in the use of land, which are relevant to this Appeal.
- 3.46. The Council has cited Paragraphs 174 to 182. Paragraph 174 indicates decisions should seek to contribute and enhance the local environment by: protecting valued landscape and sites of biodiversity, among other sites; and recognise the intrinsic character of the countryside, among other reasons.
- 3.47. It is not clear why the Council refers to Paragraphs 175, 176, 177, and 178, which relate to national parks, areas of outstanding natural beauty, etc, which are not relevant to this site. Paragraph 179 also is unclear as it relates to local plans and habitats, so it is also not relevant.
- 3.48. Paragraph 180 indicates that in relation to planning applications, the following principles should apply to this Appeal:
- Planning permission should be refused where there is significant harm to biodiversity which cannot be mitigated against or compensated for; and
 - Development on land outside of SSSI which is likely to have an adverse effect should not be permitted unless the benefits of the development clearly outweigh the likely impact on the features of the site and any broad impacts on national network of SSSI
- 3.49. It is assumed that only parts a), b) and d) are relevant.
- 3.50. Paragraph 181 refers to potential future habitats and European Sites and so it is not clear if the Council is identifying potential sites and whether the alleged development will have an effect on them.
- 3.51. Paragraph 182 indicates that the presumption in favour of sustainable development does not apply to sites which are likely to have a significant effect on habitats sites, unless an appropriate assessment concludes that there would not likely be an adverse effect on the integrity of the habitat site.
- 3.52. Finally, Paragraph 185 indicates that new development should take into account the likely effects on pollution, living conditions and the natural environment, by minimising adverse impacts from noise, protecting tranquil areas and limiting light pollution.
- 3.53. Other policies of NPPF apply and will be reviewed with the Proofs of Evidence.

Other Material Considerations

- 3.54. Other material considerations include the Dorset Heathlands Planning Framework 2020–2025 and the 'Towards 2015 – Shaping Tomorrow's Tourism' referred to in the policy. This latter document was not available from the Council's website and any relevance to the case will be supplied in the Proof of Evidence if this document can be located.



- 3.55. Turning to the Dorset Heathlands Planning Framework supplementary planning document (the "DHPF"), this was published In April 2020. A copy can be found In Appendix 28.
- 3.56. In relation to sites within 400m of the heathlands, Paragraph 4.5 confirms that DHPF focuses on residential development. It also Identified that certain other uses should not be permitted within 400m of the Heathland, and this includes "self-catering, caravan and touring holiday accommodation", but It then goes on to state that these should be determined on a case by case basis.
- 3.57. At Paragraph 4.22, It Indicates: "*Tourism (sic) development and other types of housing can have a significant effect on the Dorset Heathlands, but outside 400 metres some may be mitigated. Further details are set in Appendix B.*"
- 3.58. With respect to permitted development, the DHPF only refers to residential dwellings as ones which could have a significant effect on the Heathlands for which mitigation measures will be required.
- 3.59. Appendix B states that other forms of development (other than residential) may cause additional harm and that this should be considered on a case by case basis. As regards to caravan sites It states:

Self-catering, caravan, chalet and touring holiday accommodation	Yes	No	Yes	HIP for larger scheme / contribution as per C3 housing for smaller schemes	Provide a HIP or 1 unit =60% of 1 flat
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- 3.60. It goes on to state that:

Self-catering, caravan and touring holiday accommodation applications

Self-catering and touring proposals are likely to have broadly similar impacts upon the heathland to those arising from residential development. Whilst individual applicants may seek to reduce some of the impacts e.g. by restricting pets there is considerable uncertainty about whether, over time, such agreements would be effective and therefore such proposals cannot be supported. The restriction of pet ownership does not in any case restrict all impacts likely to arise. Therefore any net increase in self-catering and touring proposals will not be allowed within 400 metre heathland area.

Between 400 metres and 5km mitigation it will be necessary for:

- Larger proposals to provide bespoke mitigation in the form of HIPS; and
- Small numbers of additional units, to provide mitigation through the contribution policy offered by the SPD. For the Purbeck Local Plan area, in cases where CIL doesn't apply, the preference will be for mitigation measures to be provided as part of the development package.

In calculating financial contributions we will assume a 60% occupancy to take account of seasonal fluctuations and average occupancy (both SAMMs and HIPs). Therefore only 60% of the contribution will be necessary. Applicants can challenge this assumption, but will need to provide evidence to demonstrate that the occupancy level will be different.

- 3.61. We consider the Implications of this in the following section.
- 3.62. The Appellant will also refer to the Council's assessment of the site's contribution towards to the openness of the Green Belt as part of policy assessments for Local Plans. This can be found In Appendix 29 and its status Is currently being confirmed.
- 3.63. However, It Identifies the following for the site:
- No contribution to Purpose 1, to check unrestricted sprawl.
 - The site only makes a moderate contribution to purpose 2 of the Green Belt purposes (preventing merging towns);

- On purpose 3 (safeguarding the countryside from encroachment), the site makes a strong contribution.
- Purpose 4 relates to preserving the character of historic towns and the site makes no contribution in this regard
- Regarding Purpose 5 (assisting in urban regeneration), It is equal.



4. The Appellant's Case

Preliminary Matters

- 4.1. This Chapter provides brief details of the Appellant's case under the following Grounds of the Appeal (the "Grounds"):
- Ground (a) – that planning permission should be granted for what is alleged in the notice.
 - Ground (b) – That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.
 - Ground (c) – that there has not been a breach of planning control (for example because permission has already been granted, or it is "permitted development").
 - Ground (d) – That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.
 - Ground (f) – The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.
 - Ground (g) – the time given to comply with the notice is too short.
- 4.2. We discuss each briefly in turn.
- 4.3. As stated earlier in the report, the LPA has recently amended the Reg 37 Notice to indicate that the alleged development is EIA Development, and that they are no longer providing a Screening Opinion which would explain their conclusions. The Appellant has requested an extension of time to submit the Statement of Case because of the late nature of the change, and this report has been prepared without due regard to the change, nor having received our own legal advice on the matter. This will therefore be supplemented by an updated Statement of Case.
- 4.4. Furthermore, It is not possible to fully assess the effects of the proposal on the Dorset Heathlands, which are an SPA, SAC, RAMSAR and SSSI as some surveys of relevant species cannot be undertaken until after when this statement can be prepared. We have requested an extension to September 2023 to allow for this work to take place, but the Inspectorate has yet to confirm that this is possible. The conclusions drawn here regarding the Appellant's case are therefore subject to further change once more information on relevant matters can be obtained.

The Ground (a) Appeal

- 4.5. Ground (a) arises if the grounds (b), (c) or (d) fail, or fail in part. The following is made without prejudice to the case put forward in support of those grounds. The Appellant seeks planning permission for the carrying out of the alleged development, as listed in EN Section 3.
- 4.6. In this section, the Appellant will demonstrate that the alleged development would comply with the Development Plan policies or should be granted planning permission as material circumstances indicate otherwise. Where the Grounds (b)



(c) or (d) Appeals are accepted, the existing works would not require planning permission.

- 4.7. The EN refers to the following Development Plan Policies: HE2, HE3, KS1, KS2, KS3, ME1, ME2, PC4 and PC6. There are a number of NPPF paragraphs that are also referred to in the EN.
- 4.8. Following a review of the Development Plan, the main issues are Identified as following:
- Principle of Development
 - Green Belt;
 - Technical Considerations
 - Landscape character and visual Impact;
 - Ecology and Habitats;
 - Transport; and
 - Residential amenity, noise and disturbance.
- 4.9. Other considerations include economic development.
- 4.10. We discuss each of these in turn below. It should note that specialist consultants will prepare technical reports and/or proofs of evidence and/or a chapter in the ES, which will provide more details of the Appellant's case and what will be presented at Inquiry. In this regard, It is noted that the LPA has very recently changed.
- 4.11. The matters which are presently not considered to be relevant to the Ground (a) application or in the EN:
- Trees and arboricultural impact;
 - Flood Risk and Drainage;
 - Other technical topics, including noise and vibration, heritage or air quality, etc.
- 4.12. However, should these points be raised by the LPA in their Statement of Case, or by third parties, the Appellant reserves the right to present witnesses on these topics.
- 4.13. It is a reminder that we are only discussing the alleged development. The lawful use of the land for caravan site, and the area of the Appeal site for use by exempt organisations, are unaffected by the EN.

Principle of Development

- 4.14. The Council refer to saved EDLP Policy TODEV2, EDCS Policy KS1, KS2, KS3, PC4 and PC6 which are relevant to the principle of development.
- 4.15. The site is already used as a caravan site, and the Appeal site falls within the same planning unit (at least it did, until the LPA changed its mind on this without explanation in 2022). Indeed, there will be evidence as part of other grounds which demonstrate that the caravan site occupants regularly use this land as part of staying at a lawful caravan site, and have done for more than 10 years.
- 4.16. Policy KS1 relates to the presumption in favour of development, but this is clearly disregarded where matters of habitats are involved, in accordance with NPPF Paragraph 185.
- 4.17. Policy KS2 does not appear to have any significant implications on the principle of



the proposals, other than to Identify Three Legged Cross as a Rural Service Centre, which is in relatively close proximity. Policy PC4 indicates that there is support for land based rural businesses, which meet the criteria of the NPPF, but also where they are consistent in scale and avoid impacts on sensitive habitats or through landscape character, as well as the openness on the Green Belt. All of these matters are considered below in detail, but the proposals clearly meet the requirements of the policy on these matters.

- 4.18. Policy PC6 relates to tourism and it indicates the type of development which will be supported, but does not express which development will not be. The criteria listed for support relate to ecology and transport matters, and so support should be given to the proposals in principle.
- 4.19. As regards to compliance with the principle with regards to the NPPF, the proposals gain support from Paragraphs 81 and 84, the former indicating that proposals should gain significant weight in favour, and the latter allowing for expansions of rural tourism where it respects the character of the countryside (see below, the alleged does).
- 4.20. Saved Policy TODEV2 appears to prevent any new sites for caravans in the Green Belt. This appears to be in direct conflict with the NPPF Paragraph 84, which provides no such blanket ban, neither does NPPF Paragraphs 147-148, etc regarding Green Belt. This Policy should carry no weight as it is clearly 'out of date' in the context of Policy KS1.
- 4.21. Taking these matters together, there is no direct policy which gives rise to an objection in principle which remains relevant (Policy TODEV2 is out of date), so long as certain technical matters are complied with. The NPPF also provides significant weight in favour, and supports appropriate sustainable tourism.
- 4.22. The alleged development is considered to be acceptable in principle.

Green Belt

- 4.23. Policy PC4 refers to support for tourism proposals which avoid adverse impacts on the openness of the Green Belt. the NPPF indicates that development is inherently inappropriate (NPPF Paragraph 147) and should only be approved in exceptional circumstances.
- 4.24. There are four fundamental planning issues which need to be addressed in determining the suitability of the proposed development within the Green Belt, as follows: –
 - Whether the proposal represents inappropriate development in the Green Belt;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the purposes of including land in the Green Belt; and,
 - Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations as to amount to very special circumstances (VSC) to justify the development.



Whether the Alleged Development Is Inappropriate Development In the Green Belt

4.25. On the first point, NPPF Paragraph 150 Indicates that engineering operations and material uses of land are not Inappropriate development In the Green Belt where they preserve openness and do not conflict with the purposes of including land within the Green Belt. We discuss these criteria against both the alleged uses of land and the engineering operations.

The Effect of the Alleged Development on Openness of the Green Belt

4.26. Regarding the effect on the openness on the Green Belt, 'Openness' is not defined in the NPPF and therefore is, to a large extent, subjective. The level to which development keeps land permanently open is a matter of fact and degree. The main considerations regarding 'openness' will largely depend on whether the development is: i) located further away from existing clusters of development, and/or ii) is more visible from within or outside the wider Planning Unit Site as a result of its actual or perceived scale and bulk.

4.27. Regarding point i) the site's context is that is the alleged development is no different to what is already found on site with a caravan site for exempt organisations, or what is allowed via the lawful caravan site within the same planning unit. It is a use of land as a caravan site on which caravans are stationed. The alleged development therefore has no more material effect on the openness of the Green Belt.

4.28. The operational development is also no different to what is found on site. There are hook-up points, sanitation facilities, and other Infrastructure. It comprises limited operational development, although the land has and will continue to be occupied by caravans, Whether the caravans are there as part of an exempt organisation operation or as some other caravan site operation is no different on the effect on openness.

4.29. On point ii) above, the LPA has already indicated that the site is quite screened and wider views of the site are limited due to the presence of vegetation. It does not have many neighbours and there are very few viewpoints into the site from public vantage points, particularly from the south and east, given the private nature of the military site. Elizabeth Adams states in her Proof of Evidence in relation to a previous Appeal: *"The appeal site is enclosed by hedging, including mature trees. Approach is from the north with Gundry's Farmhouse being the southernmost residential property accessed from School Lane, a narrow highway with unmade verges. The lane is adopted and can accommodate two way traffic, but offers no pedestrian walkways and the limited width encourages slow traffic speeds. Vegetation, including hedging and trees, softens the impact of the few dwellings and adjacent paddocks and the street verges contribute to a rural character."*

4.30. The scale and bulk of the alleged development is no greater than what already occurs on site, and there is no additional views of the alleged development. The effect on openness is limited in this regard.

4.31. The effect therefore on the openness of the Green Belt is limited if not existent. This will be explored further in the Proof of Evidence.



The Conflict of the Alleged Development on the Purposes of Including Land In the Green Belt

4.32. We now turn to whether the alleged development would be in conflict with the purposes of included land within the Green Belt. There are five purposes for including land within the Green Belt, which we discussed in the previous section regarding a planning policy note. We discuss the conflict with each in turn below:

- To check the unrestricted sprawl of large built-up areas. The alleged development will have no effect on this purpose as it is not close enough to other built up areas to be perceived as sprawl. The appearance of the site would remain 'rural' in nature.
- To prevent neighbouring towns and merging together. The alleged development will have no material effect on this as it would not alter the size of the planning unit. There is already a substantial gap between Three Legged Cross and other settlements nearby. The land is also separated by the military Installation and other features. No conflict is identified.
- To assist in safeguarding the countryside from encroachment. The alleged development is no different to what can already lawfully take place on site, via exempt organisations using the land as a caravan site. There is no increase in encroachment as compared with what the LPA identifies as the existing use. No conflict is identified.
- To preserve the setting of historic towns. There are no historical towns and so this land would not contribute to their setting. No conflict is identified.
- To assist in urban regeneration, by encouraging the recycling of derelict and other urban land. The alleged development is not typically found in urban areas, and is more akin to rural escapes by holiday makers who are looking to take their touring caravans on the road and experience the countryside. There is no conflict identified.

4.33. The alleged development will not have any greater harm on the openness to the Green Belt nor will it conflict with the purposes of including land within the Green Belt. It is the Appellant's view that the alleged development falls within the definitions of appropriate development in the Green Belt, in accordance with NPPF Paragraph 150. As such, there is no conflict with Green Belt policy. Further details of this will be provided with the Proofs of Evidence.

4.34. Notwithstanding the position that the alleged development is appropriate development in the Green Belt, if the Inspector concluded that there was harm to the openness of the Green Belt or conflicts with the purposes of including land within the Green Belt, and the alleged development is not appropriate development, the harm to the Green Belt would be limited given the alleged development falls within the existing planning unit which has a lawful caravan site within it.

Any Other Harm

4.35. Turning to any other harm resulting from the proposals, the following can be



identified.

Landscape and Visual Amenity Harm

4.36. Turning to any other harm resulting from the alleged development, this also appears to be limited. As discussed below, there will be limited visual amenity effects beyond what is already permitted as a fallback position, and the site is already very well screened as identified by the LPA's officers.

Traffic and Transport

4.37. The alleged development represents the same level of development as that which can be achieved via permitted development rights, such as events organised as rallies, whereby unlimited numbers of visitors could come to the site. Evidence of such rallies taking place will be provided, although evidence of non-exempt activities will also be provided as referred to elsewhere.

4.38. It is not obvious that there would be any more transport effects arising from the alleged development. Indeed, the site has a long history as a caravan site, for which there are limited effects that have been identified. These will be discussed further via a Transport Statement. There is unlikely to be any significant harms arising from the alleged development.

Ecological Impacts

4.39. The Council has raised concerns that the alleged development may have adverse effects on nearby ecological sites. Whilst surveys of the site will be undertaken by a suitable ecological advisor, and reports prepared as part of the Proofs of Evidence/ES, the site can already be occupied by the same number of caravans and development via exempt organisations. The alleged development is unlikely to have any additional adverse impacts on the integrity of nearby ecological sites, by way of the introduction of pets, recreational disturbance, or by loss of habitat than what is already permitted on site. Indeed, the habitats nearest to the site form private military lands, which are excluded from access for security reasons, and so there is unlikely to be any significant adverse impacts.

Residential Amenity, Noise and Disturbance

4.40. The LPA has also cited that there would be effects on residential amenity, there will be noise and other disturbance. However, the site has been already acknowledged as being quite isolated from neighbours. The nearest residential dwelling is over 100m away from the edge of the site.

4.41. In any event, the site has been used by exempt organisations and the effects of noise and disturbance arising from those activities are already lawful. Indeed, there is already a lawful caravan site found within the planning unit. The likely effect on residential amenity, noise and disturbance is likely to be limited, if there is any effect at all.



Other Considerations

- 4.42. Proposals for economic development or which support the expansion of local businesses attract significant weight in favour, in accordance with NPPF Paragraph 81. In the Proofs of Evidence, evidence of the estimated economic benefits of the proposals will be outlined. This will include a significant increase in jobs on site, substantial direct and indirect spending increases in the area.
- 4.43. The site is already a lawful caravan site, and the area is permitted to operate as a caravan site, save for exempt organisations. The fallback position is that the same alleged development could take place without any breach of planning control. The impacts arising are effective 'permitted effects'.
- 4.44. Other considerations will also be outlined in the Proofs of Evidence.

Very Special Circumstances

- 4.45. Paragraph 148 indicates that very special circumstances will only exist where the potential harm to the Green Belt by inappropriateness, and any other harm, is clearly outweighed by other considerations. We have already identified that the alleged development is likely to be appropriate development. However, if it is found by the Inspector that it is inappropriate development, then the Appellant contends that very special circumstances exist which allow planning permission to be granted. This is because the harm to the Green Belt by inappropriateness is limited, at best, and any other harm is also quite limited. The other considerations, including the economic benefits and the application of the fallback position, clearly outweigh these harms. As such very special circumstances exist.
- 4.46. The Proofs of Evidence will expand on how the Appellant considers that there are very special circumstances which exist in accordance with NPPF Paragraph 148.
- 4.47. In summary, in Green Belt terms, the alleged development is either appropriate development according to NPPF Paragraph 150 b) and e), or that very special circumstances exist which allow the scheme to be permitted according to NPPF Paragraphs 147 and 148.

Technical Considerations

Landscape and visual impact

- 4.48. Policy HE2 refers to layout and design matters, and indicates that development will be approved where it is, among other things, acceptable in landscape and visual impact terms. Policy HE3 refers to landscape quality and sets out that development will need to protect and seek to enhance the landscape character. Policy PC4 supports tourism development where it would not have an adverse impact on the landscape character of the area.
- 4.49. The Applicant's landscape consultant will provide a landscape Proof of Evidence. However, the Council has already acknowledged that the site is well screened and that this softens any landscape impact. In any event, the use of land and operational development is associated with a lawful caravan site, and so the impact



of the alleged development is limited given the fallback position.

- 4.50. An appropriate landscape and visual appraisal (LVIA) will accompany the Landscape Proof of Evidence/ES Chapter, which will be submitted at a later stage. The landscape consultant will present at the Inquiry.

Ecology and Habitats (Including nutrient and recreational impacts)

- 4.51. The LPA refers to Policy ME1 and ME2 and the DHPF, as well as Policies PC4 and Policy PC6.
- 4.52. The Appellant has sought an extension of time to carry out the relevant ecological surveys to ensure that the baseline ecological position is understood. This will include the alleged development, but it should be noted that the site can operate as a caravan site with the alleged operational development in any event.
- 4.53. The DHPF indicates that no tourism development is acceptable within 400m of the Heathland. However, this position is contrasted by the fact that the site has operated for exempt organisations, and can continue to do so, at the same levels as the alleged development. The harm will be limited as a result and there would be no adverse effect on the relevant European Sites.
- 4.54. The ecological advisor will consider the ecological conditions of the site, and potential impact on the heathlands taking into account the baseline situation
- 4.55. A full ecological appraisal, including surveys of relevant species, will be prepared by an ecological consultant and included as a chapter of the ES/as proofs of evidence. The ecological consultant will present evidence to the Inquiry.

Transport and Traffic

- 4.56. The LPA has not cited Policy KS11, although it has raised transport issues in the Expediency Report. The LPA is aware that the site has operated and that there are no known significant transport issues arising. As referred to above, the baseline position is the same.
- 4.57. A transport consultant will be preparing a transport proof of evidence and will be able to give evidence at the Inquiry as to the limited transport effects arising from the proposals.

Noise, Residential Amenity and Disturbance

- 4.58. The LPA has also cited Policy HE2 with regards to disturbance and amenity concerns arising from the alleged development. The Appellant considers that these effects are misplaced, as the site has already been lawfully operating as a caravan site in part, and other parts have been used for rallies. The effect on residential amenity, noise and disturbance would not increase beyond what is already lawful, as noted above.
- 4.59. Furthermore, an assessment of potential receptors, these are limited. The nearest dwelling to the Appeal site is over 100m away, and there are very few other properties in any proximity to the site. The effect of traffic on School Lane would be no greater than what is already lawfully permitted on the site. There is no conflict with Policy HE2 in this regard.



4.60. The Appellant will provide further details with their Proof of Evidence, and will have a noise specialist provide evidence as part of the Proofs of Evidence. They may also attend the Inquiry and give evidence on this position.

The Planning Balance

4.61. The Planning Proof of Evidence will set out details regarding the planning balance. It will demonstrate that the principle of development is acceptable, that the development is not inappropriate development, but if the Inspector found that it was, that very special circumstances exist because the other considerations clearly outweigh the limited harm to the Green Belt and any other harm identified. Indeed, there are few technical constraints to the proposals when considering the baseline effects. On this basis, the policy position is supportive of the scheme, and there are significant material considerations in favour, including economic benefits, but also the established fallback position. The Appellant will demonstrate that planning permission should be granted as a result.

The Ground (b) Appeal

4.62. The Ground (b) Appeal relates to: *"(b) That the breach of control alleged in the enforcement notice has not occurred as a matter of fact."*

4.63. The site is part of a larger planning unit containing land to the west and the east, as was common ground in the previous appeal. The use of that planning unit was accepted to be a mixed use comprising occupation of caravans for holiday purposes, caravan storage and agriculture.

4.64. The original use (agriculture and caravanning by exempt organisations) claimed by the Council is therefore incorrect. It is notable that it was not put forward as being the previous use of the land in the earlier notices.

4.65. There has therefore been no change to the use of the land.

4.66. We will elaborate on this in the Proof of Evidence.

The Ground (c) Appeal

4.67. The Appeal has been made on Ground (c), which relates to: *'(c) That there has not been a breach of planning control (for example because permission has already been granted, or it is "permitted development").'*

4.68. If the land was in a lawful mixed use for agriculture and as a caravan site for exempt organisations, then a change to a mixed use for agriculture, caravan site for human habitation, caravan storage and donkeys is not a material change of use. The essence of the complaint is that the site has been occupied by caravans other than by exempt organisations. That is not a material change of use from it being occupied by those who are from exempt organisations.

4.69. The presence of donkeys does not amount to a material change of use of the planning unit.

4.70. Wastewater facilities to serve the eastern parts of the caravan site are required by



conditions on the caravan site licence. Those facilities within the enforcement notice site are therefore permitted development under Part 5, Class A of the GPDO.

- 4.71. This will be further explored In the Proofs of Evidence, including to references to key case law regarding the movement of caravans around the site does not cause a material change of use, nor does Intensification without a change in the definable character of the use. References will be made to court cases at *Hertfordshire High Court and Court of Appeal* [[2012] EWHC 277 (Admin) & [2012] EWCA Civ 1473]], and *Reed* [[2014] EWCA Civ 241], as well as various Appeal case law, including at White Horse Park [APP/F1230/X/18/3206065 & APP/F1230/X/18/3206069].

The Ground (d) Appeal

- 4.72. The Appeal has been made on Ground (d), It relates to: "*(d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters*"
- 4.73. The land has been in its current use for more than 10 years. Either the use has been for exempt organisations, or it has been lawfully established as a standard caravan site.
- 4.74. Evidence will be provided In the Proofs of Evidence regarding the use of the land by people who are not members of any exempt organisation regularly for over 10 years. The evidence will take the form of statutory declarations from Lorraine Pitt and Basil Reginald Pitt regarding the use of the site since 2009, as well as third parties who attended site who were not associated with exempt organisations on a regular basis.
- 4.75. References will also be made to the nature of the infrastructure on site, which would have continued the use as a caravan site.
- 4.76. It has been difficult to respond in detail to the allegation about operational development as it is not entirely clear precisely which operational development is covered by the Notice as it is not clearly defined. It is likely that some of the operational development is also lawful by the passage of time, and evidence will be presented on this in the proofs of evidence. If there was an unlawful material change of use, then the operational development complained about was for the purpose of the 'original' mixed use, as a caravan site for exempt organisations, or as part of the use of the land to the east for the lawful caravan site activities. They would not therefore be part of the claimed unlawful use and so would be subject to the four year period for enforcement rather than 10 years.

The Ground (f) Appeal

- 4.77. The Appeal on Ground (f) relates to: "*(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;*"



- 4.78. The steps required are unclear for the reasons given above.
- 4.79. Separate to that problem, the steps are excessive. The notice requires the cessation of the use for the siting of caravans for human habitation, when the lawfulness of siting for some forms of human habitation is accepted as being lawful. The operational development which is required to be removed is all required as part of the use of the land as a caravan site for exempt organisations and the lawful caravan site.

The Ground (g) Appeal

- 4.80. The Appeal on Ground g) relates to 'that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.'
- 4.81. The three month period for compliance with the notice is too short. The previous, withdrawn, enforcement notices set longer periods.
- 4.82. The reasons for this include avoiding work In the Winter, during nesting bird season, during sensitive periods for species associated with nearby ecologically designated sites, disturbance to holiday makers within the caravan site during peak holiday periods, affecting advanced bookings for large events, etc.
- 4.83. A more suitable time period would be 1 year, which, if appeals on all other grounds are dismissed, this would allow the LPA and the Appellant to agree the most suitable period within the 1 year timeframe to allow the removal works to take place.



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