

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)**

ENFORCEMENT NOTICE

ISSUED BY: Dorset Council (“the Council”)

1. **THIS NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (b) of Section 171A (1) of the above Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex attached to the notice and the enclosures to which it refers contain important additional information.

2. **THE LAND TO WHICH THE NOTICE RELATES**

Land at Gundrys Farm, School Lane, Three Legged Cross, Dorset

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.

4. **REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the breach of planning control has occurred within the past 10 years, pursuant to s171B (3), and is not immune from enforcement action.

Presumption in favour of sustainable development

The site is located within the open countryside, located at a distance from local services and facilities. The location of the site does not provide easy access to local services except by use of a private car. The purpose of restricting such development in open countryside is to direct uses to sustainable locations where they are integrated within the wider community and not isolated away from the local population. Holt and West Moors Heath is a European protected site therefore the presumption in favour of sustainable development does not apply unless an appropriate assessment has concluded that the project will not adversely affect the integrity of the habitat's sites (see para. 177 of the NPPF). An appropriate assessment has been undertaken but is unable to conclude no adverse effect due to a lack of mitigation. To this end the development fails to comply with policy KS1 of the Core Strategy.

The development is inappropriate development in the Green Belt

The site lies within the South East Dorset Green Belt. The Green Belt was first established in principle in the South East Dorset Structure Plan dated 1980. The Green Belt boundaries were first drawn in 1982 and have not changed significantly since then. The South East Dorset Green Belt covers about 33,000 hectares.

Saved Policy TODEV2 of the East Dorset Local Plan 2002 states that: *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.*

The policy is clearly prohibitive and in its preamble, text refers to the conflict such uses have with the aims of Green Belt Policy. Therefore, and as the site falls within the designated Green Belt, the development is clearly contrary to this policy.

One of the most important purposes of the Green Belt is to prevent encroachment of development into the countryside and to protect the separate physical identity of individual settlements in the area by maintaining wedges and corridors of open land between them. Green Belt policy has been an important tool in controlling the location of growth throughout the District and has proved to be successful in controlling the spread of development into the countryside, as set out in paragraph 4.9 of the Development Plan.

Paragraph 144 of the NPPF advise LPA's that *"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"*.

Paragraph 145 of the NPPF advises that new buildings are inappropriate in the Green Belt but goes on further to confirm six key exceptions to this rule. Exceptions (a) and (b) are as follows:

- (a) buildings for agriculture and forestry;
- (b) provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;

Paragraph 146 of the NPPF advises that certain other forms of development, which include at (e) material changes of use, are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.

The use of land for outdoor camping, caravanning and motorhome use fails to preserve the openness of the Green Belt and fails to safeguard the countryside from encroachment so cannot benefit from paragraph 146 (e). The associated operational development facilitates the use and contributes to harm to openness contrary to NPPF paragraph 145 exception (b). Therefore, the proposed change of use, together with all its buildings, hook-up points and associated infrastructure used in connection with the camping, caravanning and motorhome camping for recreational/ residential purposes, including their continued presence when not in active use, would be inappropriate development, contrary to Policy KS3 of the Development Plan and paragraphs 143 to and including 146 of the National Planning Policy Framework.

The effect on the openness of the Green Belt

The site's former character was of open grazing areas of fairly flat and level ground. The site is accessed off a shared track off School Lane, which leads into Gundrys Farm courtyard or gated fields leading to the areas where the caravan and camping fields are located. The site has a number of residential properties in School Lane and Ringwood Road in close proximity to the site.

The site is fairly well screened and there are very limited public access points whereby you can see where the camping is located. The fact that you cannot easily see it does not mean that for the purposes of Green Belt it has no effect on openness. It is well established that openness in the context of Green Belt means freedom from physical inappropriate development.

It is noted that the use may be offered on a seasonal basis, and with some caravans and motorhomes coming and going, some elements being more transient than others; but it is evident that other caravans and motor homes together with the buildings, hook-up points, hardstanding tracks, track road networks and associated infrastructure which support the use of land remain on site all year round. The website offers seasonal pitches and storage and during a previous visit, the season was purported to end at the end of October with a season's pitch being a full year, with an option to retain the caravan on site when not in use. It is unknown how many customers took advantage of this at the time.

Since enforcement action was first taken the land owners have not used the majority of the land for camping and caravanning customers but nevertheless infrastructure has remained. On 3 September 2020 there were a few caravans on the former rally site close to the lawful storage area B3.

Paragraph 133 of the NPPF reaffirms the fundamental aims of Green Belt. The NPPF confirms that openness is the essential characteristic of the Green Belt. It is considered that the development would reduce the overall openness of the Green Belt when in active use and in respect to the caravans and motor homes, buildings hook-up points, hardstanding tracks, track road networks and associated infrastructure which remain behind when the camping season ends; therefore the unauthorised development considered as a whole erodes the site's openness and as such undermines the Green Belt's essential characteristics, thus conflicting with the provisions of the NPPF.

The effect of the proposal on the landscape character and the visual and general amenity of the surrounding area

The development has a deleterious impact upon the rural character of the locality by reason of the siting of: tents; caravans and motorhomes; associated vehicles; domestic paraphernalia (the latter when in use), (prior to enforcement action there was open storage of caravans and camper vans when not in any active use), on land which has previously been maintained as open and undeveloped. These physical features appear as a utilitarian form of development which is considered out of keeping/incompatible with the woodland character of surrounding land within the Green Belt. The current unauthorised use of land and its facilitating operational development is considered contrary to the general rural aesthetic of the wider site and area.

Furthermore, a number of concerns have been raised by local residents in the area in connection with the unauthorised development. The main thrust of their comments has included: noise, impact upon residential amenity, general disturbance, traffic generation, unlawful works and unauthorised use of the site, as well as Green Belt concerns.

Consequently, the development is contrary to Policy HE2 and HE3 regarding visual and loss of amenity to the surrounding area and nearby residential properties as set out within the Christchurch and East Dorset Local Plan Part 1, Core Strategy dated April 2014 and paragraphs 170, and 180, of the NPPF, in terms of tranquillity and character of the immediate area and design, form and visual impact of the built form within the immediate and wider setting of the area.

The Rural Economy

PC4 entitled “The Rural Economy” is a permissive policy for economic development subject to a number of criteria.

Whilst the Council acknowledges that this business site makes a positive contribution to the rural economy through tourism (many local attractions), such a use of land must not cause harm to the openness of the Green Belt nor have adverse impacts on sensitive habitats. The development has an impact on the openness of the Green Belt and could have an adverse impact on sensitive habitats, therefore the development is contrary to policy PC4 of the Core Strategy and para 84 of the NPPF.

Tourism

Policy PC6 acknowledges the enhancement tourism can bring to the local economy, but at the same time the policy seeks to avoid potential harmful impacts on other important natural features and reducing recreational features on sensitive habitats. The development which is the subject of this report increases visitor pressure on the Dorset Heaths and in the absence of any possible or appropriate mitigation the development would be contrary to this policy.

Impact Upon Protected Dorset Heathland

The site lies within 400 metres of Holt and West Moors Heath SSSI which is also a Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site (wetlands and waterfowl) protected by international legislation. European wildlife sites are protected by the EC Birds and Habitats Directives, specific provisions of which are applied in the UK by the Conservation of Habitats and Species Regulations 2017.

The Dorset Heathlands cover an extensive area of South East Dorset. In accordance with advice from Natural England and adopted in the Dorset Heathlands Planning Framework 2020-2025 and Supplementary Planning Document (SPD), no new residential development (including temporary) will be permitted within 400 metres of protected European and internationally protected heathlands. Holt and West Moors Heath is a European site where the presumption in favour of sustainable development does not apply whereby development requiring appropriate assessment because of its potential impact on a habitats site being planned or determined (para. 177 of the NPPF). This SPD accords with the principles of the NPPF and it is a result of the co-operative approach to partnership working between the local authorities in South East Dorset and statutory and third-party stakeholders as prescribed by the Localism Act 2011

The protected heathland to the south, and which is within 400m of the site, is part of West Moors Depot (MoD). The advice from Natural England is that because of the security arrangements at the MoD establishment, the range of urban related recreational pressures – including disturbance from walking, dog walking and predation by cats, as well as impacts from arson, are significantly reduced for the adjacent specifically protected heathland. As a result, Natural England have advised that there may be scope for an exception to the restrictions on development within 400m of this particular site and proposed development, subject to conditions restricting the keeping of pets at the site, and restriction of occupancy to ensure turnover of occupants and prevent residential occupation. Without the opportunity to subject the proposed development to conditions, the development would have a significant adverse effect upon the designated site, and would be contrary to paragraphs

174 to and including 177 of the Framework and Policies ME1 and ME2 of the Core Strategy and contrary to the adopted Dorset Heathlands SPD.

The site also lies within a 400m to 5km distance of a number of other protected heathland sites, including other parts of Holt and West Moors Heath SSSI to the north of the site. Development would therefore be likely to have a significant adverse effect upon protected Dorset Heathland in the 400m to 5km range. The protected heathlands to the north of the site are open countryside and directly linked to the application site by Rights of Way (a walk of c. 1.2km). In respect of these areas of protected Dorset Heathland, Natural England has advised that it would be necessary for mitigation to be secured in accordance with the SPD including an on site Heathland Infrastructure Project, specifically a suitable area of natural greenspace. Without mitigation the development would be contrary to paragraphs 174 to and including paragraph 177 of the Framework and Policies ME1 and ME2 of the Core Strategy and contrary to the adopted Dorset Heathlands SPD.

Natural England has advised the authority about the intensification of residential development (including temporary/seasonal) in South East Dorset and the resultant pressures placed upon protected Heathland by new occupants of developments (including temporary/seasonal) living in close proximity to the Heathlands, since 2007. Natural England report many scientific studies as evidence that public access to lowland Heathland, from nearby development, has led to an increase in wild fires, damaging recreational uses, the introduction of incompatible plants and animals, loss of vegetation and soil erosion and disturbance by humans and their pets amongst other factors have an adverse effect on the Heathland ecology. These effects are most marked for development within 400m of heathland where Natural England advise that additional residential development will have a significant adverse effect upon the designated site, either alone or in combination with other developments.

It is the view of Natural England that there is no evidence to demonstrate that the occupants of permanent/seasonal for tourist use, or others would be likely to have different recreational needs to residents in Use Class C3 dwellings. Therefore it is the view of Natural England that effects from development proposals of this type would act in combination with effects from Use Class C3 residential development and in these circumstances applications within 400m to 5km of European/internationally protected heathland should be treated in the same way as applications for Use Class C3 development. In this case Natural England advice that scale of the proposal and its location in context to other protected heathlands within walking distance is such that the applicant should provide a Heathland Infrastructure Project (e.g. Suitable Alternative Natural Greenspace (SANG)) to demonstrate that they can effectively avoid or mitigate harm to the protected sites.

Natural England's advice is consistent with Dorset Heathlands Planning Framework 2015-2020 SPD which considers self-catering tourist caravans to be considered in the same respect as Use Class C3.

Planning Balance

The development is inappropriate in the Green Belt, results harm to the rural character and local amenity and unmitigated harm to habitats sites. Limited weight can be given to the economic benefits and no very special circumstances have been identified or brought forward by the land owners or their agent through positive engagement of the enforcement investigation.

For the reasons above, it is considered that planning conditions would not overcome planning objections to the development.

5. WHAT YOU ARE REQUIRED TO DO

- 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 requirement does not prevent those served with this notice from using the land for the stationing of caravans to the extent permitted by Part 5 of Schedule 2 to The Town and Country Planning (General Permitted Development) (England) Order 2015 and schedule 1 of the Caravan Sites and Control of Development Act 1960*

- b. Demolish and remove from the Land, all:
- toilet and shower blocks including associated decking and handrail fencing;
 - electrical hook-up equipment;
 - fire hydrants;
 - water / waste water facilities

6. TIME FOR COMPLIANCE

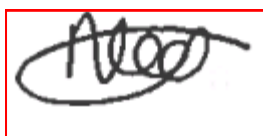
The requirements of paragraph 5 should be undertaken no later than **3 months** after this Notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on **21/05/2021** unless an appeal is made against it beforehand.

DATED: **21/04/2021**

Signed:

A handwritten signature in black ink, enclosed in a red rectangular box. The signature appears to be 'Anna Lee'.

Anna Lee

Service Manager for Development Management & Enforcement

On behalf of Dorset Council
Planning Services
South Walks House
South Walks Road
Dorchester
DT1 1UZ

Council reference: ENF/17/0094