

DATED

21st day June 2011

UNILATERAL PLANNING OBLIGATION

**PURSUANT TO SECTION 106 OF THE TOWN AND COUNTRY PLANNING
ACT 1990 (AS AMENDED)**

BY

Basil Reginald Pitt

AND

Loralne Pitt

Relating to

**Gundrys Farm, School Lane
Three Legged Cross, Wimborne,
Dorset, BH21 6RU**

THIS AGREEMENT BY DEED is made the 21st day of July Two Thousand and Eleven BETWEEN EAST DORSET DISTRICT COUNCIL of Council Offices Furzehill Wimborne Dorset (hereinafter called "the Council") of the first part Basil Reginald Pitt and Loraine Pitt of Gundrys Farm, School Lane, Three Legged Cross, Wimborne, Dorset, BH21 6RU (hereinafter called "the Owner" which expression shall where the context so admits included his/her/their successors in title to the property hereinafter described) of the second part

WHEREAS

(1) The Council is the District Planning Authority for the purposes of the Town and Country Planning Act 1990 (as amended) (hereinafter called "the Act") for the District wherein the property hereinafter described is situate and the Council and the owner have agreed to enter into this Agreement in pursuance of Section 106 of the Act for the purposes of enabling the Council to restrict or regulate the development of the property hereinafter described.

(2) The Owner is the Registered Proprietor with Title Absolute under Title Number DT98907 of the property shown edged red on the attached plan annexed hereto (hereinafter called "the Property") and known as Gundrys

Farm, School Lane, Three Legged Cross, Wimborne, Dorset. BH21 6RU and the dwelling the Gundrys Farm is shown red on the plan attached hereto.

(3) On the 1st June 2011 pursuant to Section 191 of the Act the Council issued a Certificate of Lawfulness in respect of the Property which set out the residential curtilage attributed to the said Property upon which 'permitted development' rights in accordance with the Town and Country Planning (General Permitted Development) Order 1995 (as amended) and ensuing Order would apply

(4) The Owners have agreed to enter into this agreement to confirm to the Council that the red line on the plan attached hereto as demonstrated in the aforesaid Certificate under Section 191 of the Act is the boundary of the residential curtilage of the Property

(5) The owners further agree that in accordance with Paragraph 1 of the First Schedule to the Caravan Sites and Control of Development Act 1960 that 'a' caravan placed on the land forming the residential curtilage of the Property shall only ever be used for a purpose which is incidental to the enjoyment of the Dwelling as such.

(6) The Owners have agreed to enter into this Deed to give consent to the use of the land forming the residential curtilage of the Dwelling for the purposes of the use of that land in accordance with rights given by way of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) and the Caravan Sites and Control of Development Act 1960

NOW THIS DEED WITNESSETH as follows

1. THIS Agreement is made in pursuance of Section 106 of the Act and the covenants herein are planning obligations to which the provisions of Section 106 of the Act apply
- 2 THE Owner hereby covenants with the Council in the manner hereinafter appearing to the intent that 'a' Caravan as defined by Section 29 of the Caravan Sites and Control of Development Act 1960 and Section 13 of the Caravan Sites Act 1968 shall be forever subject to the obligations and restrictions of this Agreement hereinafter contained for the purpose of restricting or regulating the development or use of the Property so that the provisions of this Agreement shall run with the land and be enforceable against the Owner and his successors in title

3 In pursuance of the Agreement the Owner hereby covenants with the Council that:

(a) 'A' caravan as described by the aforesaid provisions stationed on land forming the residential curtilage of the Property shall only ever be used for a purpose which is incidental to the enjoyment of the dwelling as such, and that it shall only ever be occupied by a person or persons who are or who are at that time members of the same household occupying the dwelling and it shall not be occupied by any other person or person who is not or not at that time a member of the same household occupying the dwelling.

(b) The stationing on the land forming the residential curtilage of the Property of a caravan as described in the aforementioned legislation shall only ever be limited to one caravan

(c) The Caravan shall remain in the ownership of The Owners and at no time shall it be separated from the Property by freehold sale lease or licence or other method of disposal neither shall the Property by freehold sale lease or licence or other method of disposal

4 IT is hereby agreed that the parties will each be responsible for their own costs in the preparation and completion of the Agreement

IN WITNESS whereof the parties have executed the Deed on the day and
year first before written

Signed and delivered as a deed BY THE SAID

Basil Reginald Pitt

SIGNATURE.....

In the presence of

Witness Signature.....

Witness Name.....AMANDA GREEN

Witness Address.....1 THE SQUARE

PONDHILL, STONE FIELDS EXPD

OX29 8GT

Witness Occupation.....NURSE

Lorraine Pitt

SIGNATURE.....

In the presence of

Witness Signature.....

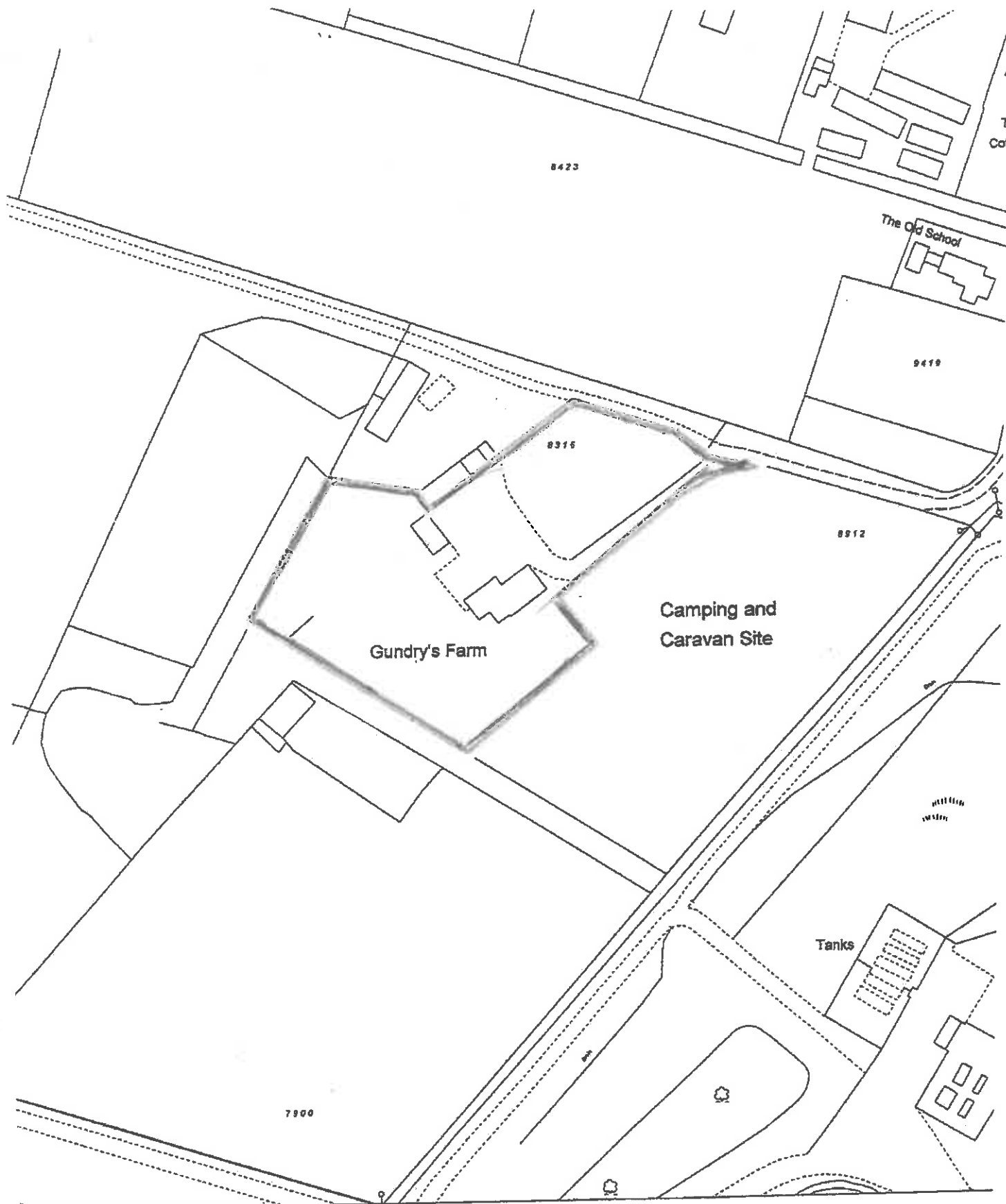
Witness Name.....AMANDA GREEN

Witness Address.....1 THE SQUARE

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3/11/0393/CLU - Grant Plan

Gundry's Farm, School Lane, Three legged Cross. BH21 6RU

Details:

Printed By:
Chief Executives

Scale:
1:1250

Date:
26 May 2011

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East Dorset District Council
Furzehill
Wimborne
Dorset
BH21 4HN

Tel: (01202) 886201
Fax: (01202) 341390
www.eastdorset.gov.uk

Chris Gausden

From: Chris Gausden
Sent: 26 July 2011 12:47
To: 'gundrysfarm@gmail.com'
Subject: Sec 106

Thank you for the 106 received yesterday.

The original has been lodged with the Council's legal team with copies to land Charges and the enforcement record.

All matters are now closed.

Thank you for your co-operation

Regards

Chris Gausden

Senior Planning / Enforcement Officer
East Dorset District Council
Furzehill
BH21 4HN
Phone - 01202-886201 x 2381
e-mail - cgausden@eastdorset.gov.uk

Gundrys Farm
School Lane
Three Legged Cross
Wimborne
Dorset
BH21 6RU

Mr C Gausden
Planning Officer
EDDC
Furzehill
Wimborne

22nd July 2011

Dear Mr Gausden

Further to your visit yesterday, we have now been to our solicitor to collect the Unilateral Planning Obligation agreement.

Please find attached document duly signed.

This should now bring all matters to a close in respect of Gundrys Farm

Thank you for your assistance and patience over the last couple of years.

Yours sincerely



Basil Pitt

Enl

Chris Gausden

From: Chris Gausden
Sent: 15 March 2011 12:33
To: 'gundrysfarm@gmail.com'
Subject: Caravan

Thank you for your letter the contents of which I note.

Your last paragraph leaves me not understanding your proposals

If you have evidence that a mobile home has been on your land, near to the dwelling, and has been used for more than 10 years as a separate unit of residential accommodation then you should be applying for a CLU for this purpose. In this context you should note that paying Council Tax under Revenue Law does not equate to proving a residential use under Planning Law.

If you do not have the evidence for the above then you should proceed by way of a CLU proving your residential curtilage and a Section 106 agreement to control the use.

Please advise.

Regards

Chris Gausden

Senior Planning / Enforcement Officer
East Dorset District Council
Furzehill
BH21 4HN
Phone - 01202-886201 x 2381
e-mail - cgausden@eastdorset.gov.uk

15/03/2011

GUNDRYS FARM
SCHOOL LANE
THREE LEGGED CROSS
WIMBORNE
DORSET
BH21 6RU
01202 826322
email. Gundrysfarm@gmail.com

Mr C Gausden
Planning Department
East Dorset District Council
Furzehill
Wimborne
BH21 4HN

10th March 2011

Dear Mr Gausden

Thank you for your letter of 2nd March in respect of our static caravan.

In order to clarify matters we will submit a certificate of lawfulness application in respect of the residential curtilage for Gundrys Farm. On the assumption that this should be passed without any difficulty as the curtilage has been established since Mr and Mrs White bought the farm in 1985.

We will submit the application together with a plan and a signed declaration from Mr and Mrs White, together with a declaration from ourselves. We should be in a position to submit the application within the next twentyone days. (My inlaws are in very poor health and are not well enough to complete a statutory declaration at the moment, but should be ok within the next couple of weeks.)

As per your recommendation, on receipt of the certificate of lawfulness we will be happy to sign a unilateral undertaking. restricting the use of the caravan to uses which are only ever incidental to the enjoyment of the dwelling. Will you please send us the wording for the unilateral agreement. As you are aware a static caravan has been within the residential curtilage since at least 1993, with full services of electricity and water. Council tax has been paid on the static since 1993.

Thank you for your assistance in this matter.

Yours sincerely


Basil Pitt

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Dorset District Council
Planning and Building Control
Council Offices, Furzehill, Wimborne, BH21 4HN

Switchboard: 01202 886201
email: planning@eastdorset.gov.uk

Mr B Pitt
Gundrys Farm
School Lane
Three Legged cross
Wimborne
BH21 6RU

Date: 2 March 2011
Contact: C J Gausden
Ext: 2381
Our Ref: ENF 11 052a

Dear Sir

Static Caravan / Certificate of Lawfulness 3/10/0917

I refer to our recent meeting at the Council's offices, which involved discussions about the above Certificate of Lawfulness and your static caravan, and I offer the following Officer level advice.

Static Caravan

The essence of this is that you want to keep a caravan within your residential curtilage and that it will only be used for purposes incidental to the enjoyment of the dwelling as such.

From this there evolve a number of issues.

Whilst I may have indicated what might be your residential curtilage on a plan this informal view cannot be binding and if you want to secure and identify what the residential curtilage of your dwelling is then you should submit a Certificate of Lawfulness with supporting evidence.

Having established what your residential curtilage is you may have a caravan thereon as described in Paragraph 1 of the First Schedule to the Caravan Sites and Control of Development Act 1960.

For the avoidance of doubt I have copied to you paragraphs 1 to 13 of the First Schedule.

It remains, however, that the static caravan is fully connected to services and can be used as a separate dwelling and the Council has to consider its position and how the use of the caravan can be controlled.

Subject to you establishing your residential curtilage then a way forward would be for you to sign a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 (as amended) restricting the use of the caravan to uses which are only ever incidental to the enjoyment of the dwelling as such.

If all of the foregoing is unacceptable to you then you have the further option of submitting a Certificate of Lawfulness proving that you have had a separate residential caravan on the land for more than 10 years and that for that period of time it has only ever been used as an independent dwelling.

No doubt you will advise me of your choice of process.

/continued.....

Certificate of Lawfulness 3/10/0917

Thank you for drawing my attention to what appears to be an irregularity in the Council's data set of aerial photographs for 2005. I am exploring this with the data set owner Dorset County Council.

I have, however, re-visited the data set and found that by opening one type of process the photograph that you have questioned is brought up as data, whilst another process brings up a different photograph which I have now copied to you.

I am quite prepared to show you the data set and the other aerial photographic storage that we have.

The key question in this Certificate of Lawfulness application remains has the "use of the land for the storage of up to 10 caravans in the Blue camping field during the off-season' been proven on the balance of probability.

To achieve this level of proof a complete 10 year period has to be examined. There is also a question mark over what you consider to be the off-season as this is relevant to the dates of some of the photographs.

The photographs of 2001, 2002 and 2004 are key photographs for the Council reaching the decision that it did. The now included 2005 photograph similarly fails to provide the level of proof required.

If you have further evidence in the form of booking forms, receipts and bank receipts to cover a specific set of winter dates for a 10 year period then this may be a way of some usage being proven, but a blanket certificate for 10 caravans over an undefined date period is unlikely to be granted.

I trust that this advice is of assistance to you.

Yours faithfully



C J Gausden
Senior Planning / Enforcement Officer

East Dorset District Council
Planning and Building Control
Council Offices, Furzehill, Wimborne, BH21 4HN

Switchboard: 01202 886201
email: planning@eastdorset.gov.uk

Mr B Pitt
Gundrys Farm
School Lane
Three Legged cross
Wimborne
BH21 6RU

Date: 23rd February 2011
Contact: C J Gausden
Ext: 2381
Our Ref: ENF 11 052

Dear Sir

Static Caravan

I note that you have not offered a date for a site meeting.

I therefore offer the following advice.

A dwelling house may, within its curtilage, have a caravan which is on the land for a purpose which is incidental to the enjoyment of the dwelling as such.

As such the first thing that you have to do is to establish what your residential curtilage is. From my visits I am of the view that the caravan is not presently on land which would be regarded as your curtilage.

The second issue is the concept of 'incidental'. In order to meet this qualification any occupier of the caravan would have to simply sleep in it and for all other purposes would be part and parcel of the family unit in the main dwelling.

There is also a concept of permanence and from memory this caravan is plumbed in, and has other development around it.

On the basis of what I have seen this caravan is not within your curtilage and its use is not incidental to the enjoyment of the dwelling as such. As such your view that you were keeping it just for the family is not sufficient to negate any planning considerations.

The alternative is that you submit a Certificate of Lawfulness and demonstrate that a caravan has been on your land for more than 10 years and used for the purposes that you claim, and in this case any redundant caravan or caravan which is no longer being used should be removed from the site before any such application is submitted.

If I hear nothing further from you then I will visit the site, preferably by way of a mutually agreed appointment, and move to formal enforcement action if that is necessary.

Yours faithfully


C J Gausden
Senior Planning / Enforcement Officer

East Dorset District Council

Planning and Building Control

Council Offices, Furzehill, Wimborne, BH21 4HN

Switchboard: 01202 886201

email: planning@eastdorset.gov.uk

Mr B Pitt
Gundrys Farm
School Lane
Three Legged cross
Wimborne
BH21 6RU

Date: 17th February 2011
Contact: C J Gausden
Ext: 2381
Our Ref: GEN 03 2011

Dear Sir

Static Caravan

Thank you for your letter of the 9th February 2011.

I regret that the Council cannot discharge this matter on the basis of your letter.

I would suggest that you contact me to arrange a site inspection when your points can be made and I will be able to offer advice on how to process this matter.

Yours faithfully

C J Gausden
Senior Planning / Enforcement Officer

**Gundrys Farm
School Lane
Three Legged Cross
Wimborne
Dorset
BH21 6RU**

01202 826322

Mr C Gausden
Planning Dept, EDDC
Furzehill
Wimborne
Dorset

9TH February 2011

Dear Mr Gausden

Further to our letter of 13th December 2010 regarding a static caravan at the farm.

We would advise that full council tax has been paid on a static caravan as confirmed by your benefits and revenue office, since inception of council tax on 1st April 1993. Copy letter attached.

You are aware the old static caravan has been decommissioned and is no longer in use.

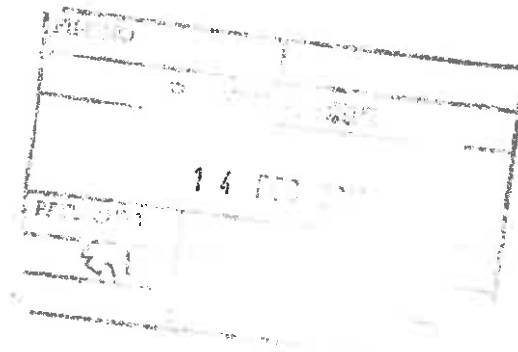
We have decided to use the replacement static caravan for our family and friends. As a result we shall continue paying the council tax in line with previous 18 years.

We hope that this now concludes this matter.

Yours sincerely



Basil Pitt



East Dorset District Council

Benefits and Revenues, Council Offices,
Furzehill, Wimborne, BH21 4HN

Switchboard: 01202 886201

Fax: 01202 887960

email: revenue.services@eastdorset.gov.uk



MR B PITT
MRS L PITT
CARAVAN AT GUNDRYS FARM
SCHOOL LANE
THREE LEGGED CROSS
WIMBORNE DORSET
BH21 6RU

Contact: Mrs Hollinrake
Extension: 2295
Date Issued: 22 Jan 2010
Our Ref: 112110861

Dear Mr PITT
& Mrs PITT, RE COUNCIL TAX

Further to your letter of 21st January 2010 regarding Council Tax for the Caravan at Gundrys Farm.

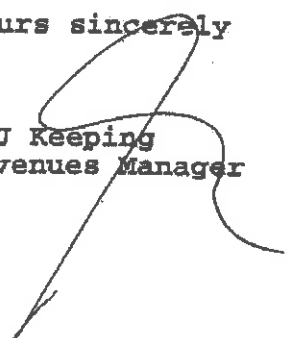
I confirm that the Council Tax Banding is Band A.

I confirm that Council Tax has been paid in full since inception of Council Tax on the 1st April 1993.

I trust this information is satisfactory.

Yours sincerely

T J Keeping
Revenues Manager



INVESTIGATION NOTES

Page No.

Case No.

Notes / Visits / Observations etc. [EACH ENTRY DATED AND SIGNED]

[The page contains faint horizontal dotted lines across its entire width.]