

IN THE HIGH COURT OF JUSTICE

CLAIM No: QB-2020-004363

QUEEN'S BENCH DIVISION

**IN THE MATTER OF SECTIONS 214A AND 187B OF THE TOWN AND COUNTRY
PLANNING ACT 1990**

BEFORE:

B E T W E E N:

The Claimant and Defendant in an Intended Action

NEW FOREST NATIONAL PARK AUTHORITY

Claimant

-and-

(i) DAVID QAYUMI

First Defendant

**(ii) PERSONS UNKNOWN CARRYING OUT OR INSTRUCTING
/ASSISTING ANOTHER TO CARRY OUT UNLAWFUL TREE WORKS**

Second Defendant

PARTICULARS OF CLAIM

(DETAILS OF CLAIM, UNDER PART 8 CPR)

BRIEF DETAILS OF CLAIM

1. The New Forest National Park Authority ('Claimant') is the local planning authority for the New Forest which is one of the largest remaining tracts of unenclosed pastureland, heathland and forest in Southern England.
2. The 'Land' in issue is a protected woodland located within the New Forest, south of the A336 between junctions with Eadens Lane and Tatchbury Lane, Bartley, SO40 7LA as identified on the Plan accompanying Tree Preservation Order ('TPO') No. 26/93 dated 17 May 1993 within the green hatched demarcation labelled 'W1' ('the Land'), on the **PLAN** annexed hereto.
3. The TPO remains in force and has not been revoked or modified. (Exhibit 1: TPO and Plan).
4. Injunctive relief is sought to prevent the direct or indirect damage, destruction and unauthorised work to trees protected by the TPO; and the carrying out of development work which could cause environmental damage on the Land, without prior permission in writing from the Claimant.
5. Between November to December 2020, several attempts were made by unknown persons to frustrate the efforts of the Claimant to restrict permitted development rights of enclosure over the Land, in that they damaged and removed signposts notifying the public of an Article 4 Direction.
6. On or around Monday 7 December 2020, the Claimant was notified that unauthorised tree works had been carried out on the Land over the weekend. It was recorded that in excess of 10 trees had been felled consisting of mature, semi mature and young Oak trees. The work had been carried out in an unprofessional and dangerous manner, leaving large fractures and splits on the main stems. Several further trees had been marked with an 'X', probably indicating that they were also due to be removed.
7. On or around 7 December 2020 at 21:30hrs two more mature Oak trees had been cut down. The First Defendant was apprehended on site by officers from Hampshire

Constabulary and the matter was passed on to the Claimant as it fell within the Claimant's investigative jurisdiction. The First Defendant told officers that he intended to build a 'truck stop' on the Land; he denied knowledge of the TPO. (Exhibit 2: Police Report).

8. The Claimant subsequently affixed copies of the Tree Preservation Order to the Land.
9. On or around 8 December 2020, the Claimant was contacted by a tree contractor who had been instructed to quote for the removal of the trees.
10. On or around 9 December 2020, the Claimant commenced proceedings to obtain an urgent out of hours interim injunction. The First Defendant was given informal notice of the application. Due to various technical issues, the claim was accepted for filing on 11 December 2020 and placed before Mrs Justice Yip that afternoon.
11. On 11 December 2020, Mrs Justice Yip granted an interim injunction and accepted the Claimant's undertaking to file and serve particulars of claim by 5 January 2021. These pleadings are therefore the 'particulars of claim' / 'details of claim' in accordance with the Part 8 procedure.
12. For the avoidance of doubt, the Claimant relies on the filed evidence, namely the witness statements of James Palmer dated 9 December 2020, David Williams dated 9 December 2020, Rosalind Alderman dated 9 December 2020; and Ian Baker dated 9 December 2020 and all the exhibits annexed thereto.

FURTHER DETAILS OF CLAIM

OWNERSHIP AND USE OF THE 'LAND'

13. In or around November 2020, the Claimant became aware of an online auction run by 'Exclusive Estates Auctioneers' whereby a larger plot of land identified under Title Plan HP734876, with the address Lot 2, Petlake Farm, Ringwood Road, Bartley,

Southampton SO40 7LA, referred to as ‘Terry’s Patch’ had been sub-divided into approximately 16 smaller plots and was being sold off on behalf of ‘The Really Useful Land Co Limited’. (Exhibit 3: Auction Plan and Description of Lots).

14. Terry’s Patch is located towards the northern boundary of the A336, which is a busy main road. It lies within the New Forest National Park Forest North East Conservation Area. It is an open field surrounded by protected woodlands, sites of special scientific interest and conservation areas.
15. Terry’s Patch includes the ‘Land’ that is subject to the TPO.
16. The Land is classified as a site comprising a priority habitat, namely broadleaved deciduous woodland. Such habitats have been identified as being the most threatened and requiring conservation action under the UK Biodiversity Action Plan.
17. The Land adjoins a local wildlife site known as Reformatory Copse (and including Marley Copse) to its north east edge which have those designations because of the presence of semi-natural ancient woodland habitat. There are eight local wildlife sites within 1km of the Land, including the ancient woodlands of Jacobs Copse and Mumms Copse within 200m to the west of ‘Terry’s Patch’. The New Forest Site of Special Scientific Interest (SSSI) and European designated Special Area of Conservation (SAC) and Special Protection Area for Birds (SPA) all lie within 1.5km of the site.
18. Biological records in the surrounding 2km area indicate the presence of at least 6 species of bat, over 25 birds of special conservation concern, badgers and hedgehogs.
19. The last available Land Registry title documents show that as of 10 February 2011, Lorraine Dawn Patching and Christopher Patching were the owners (the Claimant understands that Mr and Mrs Patching have since sold and completed sale of the land; the Land Registry title shows pending updates).
20. On or around 3 November 2020, following concerns over sub-division of Terry’s Patch and multiple ownership, the Claimant issued an immediate Article 4 Direction which was served by being placed on posts on /around Terry’s Patch. When the Article 4 Direction is confirmed in or before May 2021, it will have the effect of removing

permitted development rights of enclosure arising by operation of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

21. The Article 4 Direction consultation notice was displayed at Terry's Patch and removed by persons unknown between November – December 2020 and replaced by the Claimant, on: 23 November (signage removed over previous weekend), 1 December (removed over previous weekend); and 7 December (removed previous weekend).
22. The consultation period for the Article 4 Direction ended on or around 14 December 2020, two responses were received from which it emerged that the bulk of Terry's Patch had been sold to two main buyers namely, Ms Helen Greenaway and Mr Michael Joyce (together) and the First Defendant. The land sold off comprises plots A, B, C, E. It is understood that Plot G is unsold and as such, remains in the ownership of 'The Really Useful Land Co'.
23. The plots of land which concern this application are A, B, C, E and G. The Land, comprising W1 of the TPO, traverses the north-eastern boundary of all five plots.
24. The TPO dated 17 May 1993 was made by the New Forest District Council (the former relevant planning authority), whose planning functions were subsequently transferred to the Claimant as the sole local planning authority in accordance with Section 4A of the Town and Country Planning Act 1990 ('the 1990 Act'). The TPO has not been subsequently revoked or modified and remains in force.
25. The type of order was a 'woodland order' which has the effect of protecting saplings and all trees in the woodland, even those which were planted or grew after the order was made. The TPO prohibits any person whether acting alone or under the direction of another, from cutting down, topping, lopping, uprooting, wilfully damaging or destroying any specified tree, group of trees or in a woodland specified in the First Schedule to the TPO.
26. The First Schedule to the TPO describes the 'W1' woodland area as 'woodland comprising mainly oak, ash and birch' located 'south of A336 as shown on attached

plan'. The Plan annexed thereto is titled 'New Forest District Council: Tree Preservation Order Plan' which identifies the area 'W1' with a thick black line demarcation.

27. The prohibition on tree works applies in all cases except where permission is granted by the Claimant following an application for consent made and determined in accordance with the Town and Country Planning (Tree Preservation) (England) Regulations SI 2012/605 ('the 2012 Regulations').
28. On or around 8 December 2020, no tree work applications or exempt works notices had been submitted to the Claimant. Therefore, any tree works in breach of the TPO were a criminal offence by virtue of Section 210 of the 1990 Act, which is a non-imprisonable offence.

PARTICULARS OF ACTUAL / APPREHENDED BREACH OF PLANNING CONTROL

29. The Claimant fears that unless restrained by an injunction order, the First Defendant and any other individuals may cause significant irreparable and irreversible environmental damage to the Land.
30. The use of other planning powers has not been a sufficient deterrent:
 - 30.1 On at least three occasions between 22 November 2020 to 8 December 2020, the Claimant has been forced to replace removed signage appertaining to the Article 4 Direction concerning the removal of permitted development rights of enclosure.
 - 30.2 The TPO has been in force since 1993, but no application was made in December 2020 to the Claimant to carry out tree works.
 - 30.3 The TPO was breached on at least three occasions in December 2020 namely, the weekend of 5 December; 6 December and 7 December. The work was carried out in a furtive manner over the weekend and

during the late evening hours suggesting an intention to avoid detection.

- 30.4 Criminal offences were committed on at least three occasions in December 2020, pursuant to section 210 of the 1990 Act.
- 30.5 On or around 7 December 2020, officers from Hampshire Constabulary apprehended the First Defendant on the Land who said that he had ‘cut down the trees in order to create an access area into his land’ and that he planned to build a ‘truck stop’.
- 30.6 One written objection to the Article 4 Direction by email dated 13 December 2020 on behalf of Ms Greenaway and Mr Joyce was received expressing concern that they were unable to enclose their land. (Exhibit 4: Article 4 Response).

31. Between 11 to 15 December 2020, the Claimant sent ‘requests for information’ (‘ROI’) to various individuals pursuant to section 330 of the 1990 Act and emails were exchanged with various parties:

- 31.1 The First Defendant’s response to the ROI dated 14 December 2020 identifies himself as a freehold owner in respect of the land shown on the attached map as and that his nature of own interest in the land and premises is a ‘truck stop’. (Exhibit 5: ROI Qayumi)
- 31.2 A ROI dated 17 December 2020 which is signed by Helen Greenaway identifies herself and Mr Michael Joyce as freehold owners in respect of the land shown on the attached map and that the nature of their interest in the land is ‘agriculture and husbandry’. (Exhibit 6: ROI Greenaway and Joyce).
- 31.3 Between 11 December 2020 and 13 December 2020, the First Defendant wrote to the Claimant’s enforcement officer saying that he

will 'not carry on with any development works'. (Exhibit 7: Email Exchange)

31.4 On 15 December 2020, the Claimant received an email from Messrs. Exclusive Auctioneers saying that 'I heard it was David who cut the tree down'. (Exhibit 8: Email Exchange).

PARTICULARS OF NECESSITY OR EXPEDIENCY

32. Despite the partial assurance by the First Defendant referred to in paragraph 31.3 above, the Claimant avers that an injunction order is still necessary and expedient.

33. The Claimant avers that an injunction order is necessary and proportionate because:

33.1 The claim for an injunction order is restricted to areas where it would be a criminal offence to do anything in breach of the extant TPO.

33.2 The claim does not impose any excessive burdens on any individuals.

33.3 There remains a real and imminent risk of conduct which would cause serious and irreparable environmental damage to the Land.

33.4 Other planning powers have not been a sufficient deterrent to prevent unlawful tree works.

33.5 Parts of the Land remain unsold and give rise to other potential buyers breaching planning controls and causing irreparable harm.

34. Further or in the alternative, other planning powers have not been sufficient and are not appropriate given that they are reactionary rather than prohibitory. The Claimant avers that the environmental cost of damage is too high; loss of established features such as trees are not easily replaced in the short term and habitat features that develop over time such as crevices, lichen flora and deadwood are compromised for the future. The

biodiversity value of woodland habitat stems not only from its tree cover but also its soils and ground flora.

35. In view of the First Defendant's indication that he intended to create a 'truck stop' and access thereto at the Land, the Claimant also seeks an injunction preventing the importing of any hardstanding, building materials and associated paraphernalia, except with prior written consent of the Claimant. Whilst existing planning controls could seek the removal of any materials that are imported, the damage to the environment caused by this would be irreparable for the reasons set out at paragraph 34 above.
36. The auctioneer's layout plans indicate that roads may be created across Terry's Patch and in or around December 2020, there have been vehicles attempting to gain access onto the unenclosed site.

PARTICULARS OF SERVICE

37. On or around 9 December 2020 at 19:13hrs, the First Defendant was contacted by email and notified of the Claimant's intention to commence injunctive proceedings to prevent further tree removal.
38. On or around 12 December 2020, the sealed interim injunction order and paperwork were published on the Claimant's website and a process server was instructed to effect service on the First Defendant.
39. Between 12 December 2020 and 17 December 2020, a process server attended the last known address for the First Defendant on four occasions but was unable to effect personal service. (Exhibit 9: Witness Statement, Andrew Paul Maplethorpe, dated 17 December 2020).
40. On or around 13 December 2020, by email at 13:33hrs the First Defendant said that he would not carry on with any development works and that there was "no need" to pursue a court order.

41. On or around 15 December 2020, service was effected by email to Exclusive Auctioneers, who agreed to forward the documents on to The Really Useful Land Co Ltd and Mr Qayami who they believed to be the directly affected parties.
42. On or around 15 December 2020, Mrs Greenaway and Mr Joyce were served. (Exhibit 10: Proof of Service and Response).


AND THE CLAIMANT CLAIMS

1. The Defendant and their contractors, employees, agents and any other person whether through his or their actions or by instructing encouraging or permitting any other person must not cut down, top, lop uproot, wilfully damage, wilfully destroy, damage any tree on the Land identified on the PLAN, except with prior written consent of the Claimant.
2. The Defendant and their contractors, employees and agents whether through his or their actions or by instructing encouraging or permitting any other person must not do anything in breach of the Tree Preservation Order No. 26/93, except with prior written consent of the Claimant.
3. The Defendants and their contractors, employees and agents whether through his or their actions or by instructing encouraging or permitting any other person must not bring onto the Land identified on the PLAN, or cause or permit another to do so, any tree felling equipment, materials and associated paraphernalia, except with prior written consent of the Claimant.
4. The Defendant and its and their contractors, employees and agents whether through his or their actions or by instructing encouraging or permitting any other person must not bring onto the Land identified on the PLAN, or cause or permit another to do so, any hardstanding, building materials and associated paraphernalia, except with prior written consent of the Claimant.

POONAM PATTNI

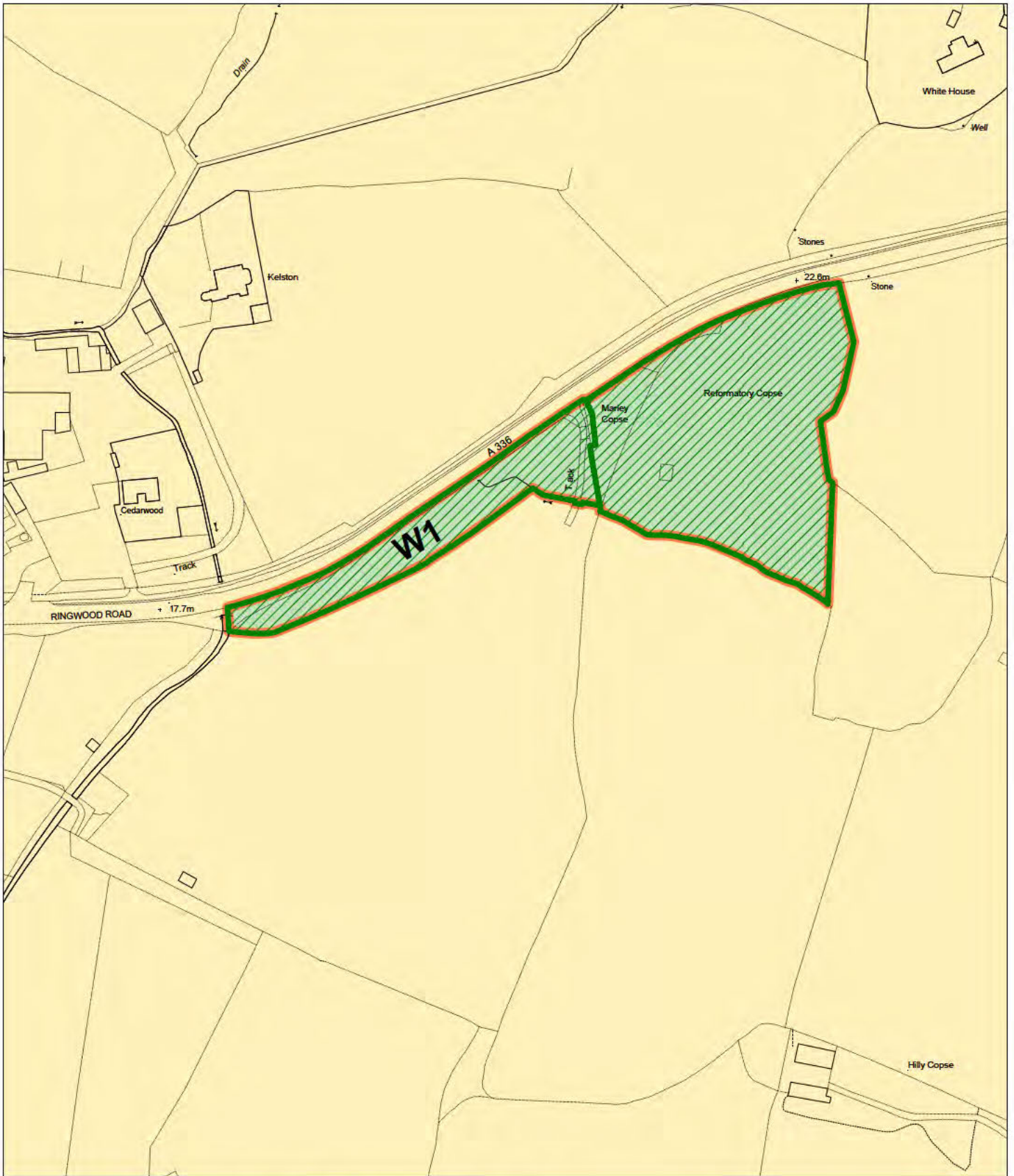
STATEMENT OF TRUTH

The Claimant believes that the facts stated in this Particulars of Claim (Details of Claim) are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.


Signed:

Name: Rosalind Alderman, Solicitor and Monitoring Officer to Claimant

Dated: 4 January 2021



**NEW FOREST
NATIONAL PARK**

New Forest National Park Authority
Lymington Town Hall
Avenue Road
Lymington
SO41 9ZG

Tel: 01590 646600
Fax: 01590 646666

Date: 04/01/2021

Land at Lot 2
Petlake Farm
Ringwood Road
Bartley
Southampton SO40 7LA
known as 'Terry's Patch'



SCALE: 1:2500

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Exhibit 1 - Tree Preservation Order No. 26/93 and plan

TOWN AND COUNTRY PLANNING ACT 1990

DISTRICT COUNCIL OF NEW FOREST

TREE PRESERVATION ORDER NO. 26/93

LAND SOUTH OF A336 BETWEEN JUNCTIONS WITH
EADENS LANE AND TATCHBURY LANE, BARTLEY

The District Council of New Forest (in this Order called "the Authority") in pursuance of the powers conferred in that behalf by sections 198 and 201 of the Town and Country Planning Act 1990 and subject to the provisions of the Forestry Act 1967 hereby make the following Order:-

1. In this Order -

"The Act" means the Town and Country Planning Act 1990;

"Owner" means the owner in fee simple, either in possession or who has granted a lease or tenancy of which the unexpired portion is less than three years; lessee (including a sub-lessee) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more; and a mortgagee in possession; and

"The Secretary of State" means the Secretary of State for the Environment.

2. Subject to the provisions of this Order and to the exemptions specified in the Second Schedule hereto, no person shall, except with the consent of the Authority and in accordance with the conditions, if any, imposed on such consent, cut down, top, lop, uproot, wilfully damage or wilfully destroy or cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of any tree specified in the First Schedule hereto or comprised in a group of trees or in a woodland therein specified, the position of which trees, groups of trees and woodlands is defined in the manner indicated in the said First Schedule on the map annexed hereto, which map shall, for the purpose of such definition as aforesaid, prevail where any ambiguity arises between it and the specification in the said First Schedule.

3. An application for consent made under Article 2 of this Order shall be in writing stating the reasons for making the application and shall by reference if necessary to a plan specify the trees to which the application relates, and the operations for the carrying out of which consent is required.

4. (1) Where an application for consent is made to the Authority under this Order, the Authority may grant such consent either unconditionally, or subject to such conditions (including conditions requiring the replacement of any tree by one or more trees on the site or in the immediate vicinity thereof), as the Authority may think fit, or may refuse consent:

Provided that where the application relates to any woodland specified in the First Schedule to this Order the Authority shall grant consent:

so far as accords with the principles of good forestry, except where, in the opinion of the Authority, it is necessary in the interests of amenity to maintain the special character of the woodland or the woodland character of the area, and shall not impose conditions on such consent requiring replacement or replanting.

(2) The Authority shall keep a register of all applications for consent under this Order containing information as to the nature of the application, the decision of the Authority thereon, any compensation awarded in consequence of such decision and any directions as to replanting of woodlands; and every such register shall be available for inspection by the public at all reasonable hours.

5. Where the Authority refuse consent under this Order or grant such consent subject to conditions they may when refusing or granting consent certify in respect of any trees for which they are so refusing or granting consent that they are satisfied -

- (a) that the refusal or condition is in the interests of good forestry; or
- (b) in the case of trees, other than trees comprised in a group of trees or in a woodland, that the trees have an outstanding or special amenity value; or
- (c) in the case of trees which are comprised in a group of trees or in a woodland, that the group of trees or the woodland, as the case may be, has an outstanding or special amenity value,

but a certificate shall not be given in the case of trees falling within (c) above if the application in respect of them has been referred by the Forestry Commissioners under section 15(1)(b) or 15(2)(a) of the Forestry Act 1967(c).

6. (1) Where consent is granted under this Order to fell any part of a woodlands other than consent for silvicultural thinning then unless -

- (a) such consent is granted for the purpose of enabling development to be carried out in accordance with a permission to develop land under Part III of the Act; or
- (b) the Authority with the approval of the Secretary of State dispense with replanting

the Authority shall give to the owner of the land on which that part of the woodland is situated a direction in writing specifying the manner in which and the time within which he shall replant such land and where such a direction is given and the part is felled the owner shall, subject to the provisions of this Order and section 204 of the Act, replant the said land in accordance with the direction.

(2) Any direction given under paragraph (1) of this Article may include requirements as to -

- (a) species;
- (b) number of trees per acre;
- (c) the erection and maintenance of fencing necessary for protection of the replanting;
- (d) the preparation of ground, draining, removal of brushwood, lop and top; and

(e) protective measures against fire.

7. On imposing any condition requiring the replacement of any tree under Article 4 of the Order with respect to the replanting of woodlands, the Authority shall if such condition or direction relates to land in respect of which byelaws made by a river authority or drainage board restrict or regulate the planting of trees, notify the applicant or the owner of the land, as the case may be, of the existence of such byelaws and that any such condition or direction has effect subject to the requirements of the river authority or drainage board under those byelaws and the condition or direction shall have effect accordingly.

8. The provisions set out in the Third Schedule to this Order, being provisions of Part III, and of section 107 of the Act, adapted and modified for the purposes of this Order, shall apply in relation thereto.

9. Subject to the provisions of this Order, any person who has suffered loss or damage in consequence of any refusal (including revocation or modification) of consent under this Order or of any grant of any such consent subject to conditions, shall, if he makes a claim on the Authority within the time and in the manner prescribed by this Order, be entitled to recover from the Authority compensation in respect of such loss or damage.

Provided that no compensation shall be payable in respect of loss or damage suffered by reason of such refusal or grant of consent in the case of any trees the subject of a certificate in accordance with Article 5 of this Order.

10. In assessing compensation payable under the last preceding Article account shall be taken of -

- (a) any compensation or contribution which has been paid whether to the claimant or any other person, in respect of the same trees under the terms of this or any other tree preservation order under sections 198 or 201 of the Act, or any compensation which has been paid or which could have been claimed under any provision relating to the preservation of trees or protection of woodlands contained in an operative scheme under the Town and Country Planning Act 1932, and
- (b) any injurious affection to any land of the owner which would result from the felling of the trees the subject of the claim.

11. (1) A claim for compensation under this Order shall be in writing and shall be made by serving it on the Authority, such service to be effected by delivering the claim at the offices of the Authority addressed to the Solicitor thereof or by sending it by prepaid post so addressed.

(2) The time within which any such claim shall be made as aforesaid shall be a period of twelve months from the date of the decision of the Authority, or of the Secretary of State, as the case may be, or where an appeal has been made to the Secretary of State against the decision of the Authority, from the date of the decision of the Secretary of State on the appeal.

12. Any question of disputed compensation shall be determined in accordance with the provisions of section 205 of the Act.

13. The provisions of section 201 of the Act shall apply to this Order and the Order shall take effect on 17 MAY 1993.

14. This Order may be cited as The District Council of New Forest Tree Preservation Order No. 2693

NOTE:

Any person contravening the provisions of this Order by cutting down, uprooting or wilfully destroying a tree, or by wilfully damaging, topping or lopping a tree in such a manner as to be likely to destroy it is guilty of an offence and liable on summary conviction to a fine not exceeding £20,000, or on indictment to a fine. The penalty for any other contravention of this Order is a fine not exceeding £1,000 on summary conviction.

If a tree other than one to which an Order applies as part of a woodland is removed, uprooted or destroyed in contravention of an Order or is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by section 198(6) of the Town and County Planning Act 1990 relating to trees which are dying or dead or have become dangerous, it is the duty of the owner of the land, unless on his application the local planning authority dispense with the requirement, to plant another tree of appropriate size and species at the same place as soon as he reasonably can. Except in emergency, not less than five days previous notice of the removal, etc. should be given to the Authority to enable the latter to decide whether or not to dispense with the requirement.

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY
(marked in black on the map)

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
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NONE

TREES SPECIFIED BY REFERENCE TO AN AREA
(within a dotted black line on the map)

NONE

GROUPS OF TREES
(within a broken black line on the map)

NONE

WOODLANDS
(within a continuous black line on the map)

W1	WOODLAND COMPRISING MAINLY OAK, ASH AND BIRCH	SOUTH OF A336, AS SHOWN ON ATTACHED PLAN
W2	WOODLAND COMPRISING MAINLY OAK, ASH AND BIRCH	SOUTH OF A336, AS SHOWN ON ATTACHED PLAN

- 5 -

SECOND SCHEDULE

This Order shall not apply so as to require the consent of the Authority to

- (1) the cutting down of any tree on land which is subject to a forestry dedication covenant where:-
 - (a) any positive covenants on the part of the owner of the land contained in the same deed as the forestry dedication covenant and at the time of the cutting down binding on the then owner of the land are fulfilled;
 - (b) the cutting down is in accordance with a plan of operations approved by the Forestry Commission under such deed.
- (2) The cutting down of any tree which is in accordance with a plan of operations approved by the Forestry Commission under the approved woodlands scheme or other grant scheme under section 4 of the Forestry Act 1967 except a scheme which applies to a forestry dedication covenant;
- (3) the cutting down, uprooting, topping or lopping of a tree -
 - (a) in pursuance of the power conferred on the Minister of Posts and Telecommunications by virtue of section 5 of the Telegraph (Construction) Act 1908;
 - (b) by or at the request of
 - (i) a statutory undertaker where the land on which the tree is situated is operational land as defined by the Act and either works on such land cannot otherwise be carried out or the cutting down, topping or lopping is for the purpose of securing safety in the operation of the undertaking;
 - (ii) an electricity board within the meaning of the Electricity Act 1947, where such tree obstructs the construction by the board of any main transmission line or other electric line with the meaning respectively of the Electricity (Supply) Act 1919, and the Electric Lighting Act 1882, or interferes or would interfere with the maintenance or working of any such line;
 - (iii) a river authority established under the Water Resources Act 1963, or a drainage board constituted or treated as having been constituted under the Land Drainage Act 1930, where the tree interferes or would interfere with the exercise of any of the functions of such river authority or drainage board in relation to the maintenance, improvement or construction of water courses or of drainage works;
 - (iv) the Minister of Defence for the Royal Air Force, the Minister of Technology or the Board of Trade where in the opinion of such Minister or Board the tree obstructs the approach of aircraft to or their departure from any aerodrome or hinders the safe and efficient use of aviation or defence technical installations.

- (c) where immediately required for the purpose of carrying out development authorised by the planning permission granted on an application made under Part III of the Act, or deemed to have been so granted for any of the purposes of that Part;
- (d) which is a fruit tree cultivated for fruit production growing or standing on land comprised in an orchard or garden.

NOTE: Section 206 of the Act requires, unless on the application of the owner the local authority dispense with the requirement that any tree removed or destroyed under section 198(6) of the Act, shall be replaced by another tree of appropriate size and species. In order to enable the local planning authority to come to a decision, on whether or not to dispense with the requirement, notice of the proposed action should be given to the local planning authority which except in a case of emergency should be of not less than five days.

THIRD SCHEDULE

Provision of the following parts of the Act as adapted and modified to apply to this Order.

75 - (1) Without prejudice of the following provisions as to the revocation or modification of consents, any consent under the Order including any direction as to replanting given by the Authority on the granting of such consent, shall (except insofar as the consent otherwise provides), enure for the benefit of the land and of all persons for the time being interested therein.

77 - (1) The Secretary of State may give directions to the Authority requiring applications for consent under the Order to be referred to him instead of being dealt with by the Authority.

77 - (2) A direction under this section may relate either to a particular application or to applications of a class specified in the direction.

77 - (3) Any application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly.

77 - (4) Where an application for consent under the Order is referred to the Secretary of State under this section, the provisions of Articles 4 and 5 of the Order shall apply as they apply to an application which falls to be determined by the Authority.

77 - (5)&(6) Before determining an application referred to him under this section the Secretary of State shall, if either the applicant or the Authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

77 - (7) The decision of the Secretary of State on any application referred to him under this section shall be final.

78 - (1) Where an application is made for consent under the Order and that consent is refused by the Authority or is granted by them subject to conditions, or where any certificate or direction is given by the Authority, the applicant, if he is aggrieved by their decision on the application, or by such certificate, or the person directed if he is aggrieved by the direction, may by notice under this section appeal to the Secretary of State.

78 - (3)&(4) A notice under this section shall be served in writing within twenty eight days from the receipt of notification of the decision, certificate or direction, as the case may be, or such longer period as the Secretary of State may allow.

79 - (1) Where an appeal is brought under this section from a decision, certificate or direction of the Authority, the Secretary of State, subject to the following provisions of this section, may allow or dismiss the appeal, or may reverse or vary part of the decision of the Authority, whether the appeal relates to that part thereof or not, or may cancel any certificate or cancel or vary any direction, and may deal with the application as if it had been made to him in the first instance.

79 - (2)&(3) Before determining an appeal under this section the Secretary of State shall, if either the appellant or the Authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for that purpose.

79 - (5) The decision of the Secretary of State on any appeal under this section shall be final.

78 - (2)&(5) Where an application for consent under the Order is made to the Authority, then unless within two months from the date of receipt of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the Authority, the Authority either -

- (a) give notice to the applicant of their decision on the application:
or
- (b) give notice to him that the application has been referred to the Secretary of State in accordance with directions given under section 77 of the Act:

the provisions of the last preceding section shall apply in relation to the application as if the consent to which it relates had been refused by the Authority, and as if notification of their decision had been received by the applicant at the end of the period prescribed by the development order, or at the end of the said extended period, as the case may be.

97 - (1)&(2) If it appears to the Authority that it is expedient to revoke or modify any consent under the Order granted on an application made under Article 3 of the Order, the Authority may by Order revoke or modify the consent to such extent as they consider expedient.

98 - (1)&(6) Except as provided in section 99 of the Act, an Order under section 97 shall not take effect unless it is confirmed by the Secretary of State; and the Secretary of State may confirm any such Order submitted to him either without modification or subject to such modification as he considers expedient.

98 - (2)-(5) Where an Authority submit an Order to the Secretary of State for his confirmation under this section, the Authority shall furnish the Secretary of State with a statement of their reason for making the Order and shall serve notice on the owner of the land affected, and on any other person who in their opinion will be affected by the Order, and if within the period of twenty eight days from the service thereof any person on whom the notice is served so requires, the Secretary of State, before confirming the Order, shall afford to that person, and to the Authority an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

97 - (3)&(4) The power conferred by this section to revoke or modify a consent may be exercised at any time before the operations for which consent has been given have been completed.

Provided that the revocation or modification of consent shall not affect so much of those operations as has been previously carried out.

97 - (5) Where a notice has been served in accordance with the provisions of section 98(2) to (5), no operations or further operations as the case may be, in pursuance of the consent granted, shall be carried out pending the decision of the Secretary of State under sub-section (1) and (6) of section 98.

99 - (1)&(2) The following provisions shall have effect where the local planning authority have made an Order (hereinafter called "such Order") under section 97 above revoking or modifying any consent granted on an application made under a tree preservation order but have not submitted such Order to the Secretary of State for confirmation by him and the owner and the occupier of the land and all persons who in the Authority's opinion will be affected by such Order have notified the Authority in writing that they do not object to such Order.

99 - (4)&(5) The Authority shall advertise the fact that such Order has been made and the advertisement shall specify -

- (a) the period (not less than twenty eight days from the date on which the advertisement first appears) within which persons affected by such Order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by a person appointed by the Secretary of State for the purpose, and

(b) the period (not less than fourteen days from the expiration of the period referred to in paragraph (a) above) at the expiration of which, if no such notice is given to the Secretary of State, such Order may take effect by virtue of this section and without being confirmed by the Secretary of State.

99 - (3) The Authority shall also serve notices to the same effect on the persons mentioned in sub-section (1) above.

99 - (6) The Authority shall send a copy of any advertisement published under sub-sections (4) and (5) above to the Secretary of State, not more than three days after the publication.

99 - (7) If within the period referred to in sub-section (4) above no person claiming to be affected by such Order has given notice to the Secretary of State as aforesaid and the Secretary of State has not directed that such Order be submitted to him for confirmation, such Order shall at the expiration of the period referred to in sub-section (5) of this section take effect by virtue of this section and without being confirmed by the Secretary of State as required by section 98(1) of the Act.

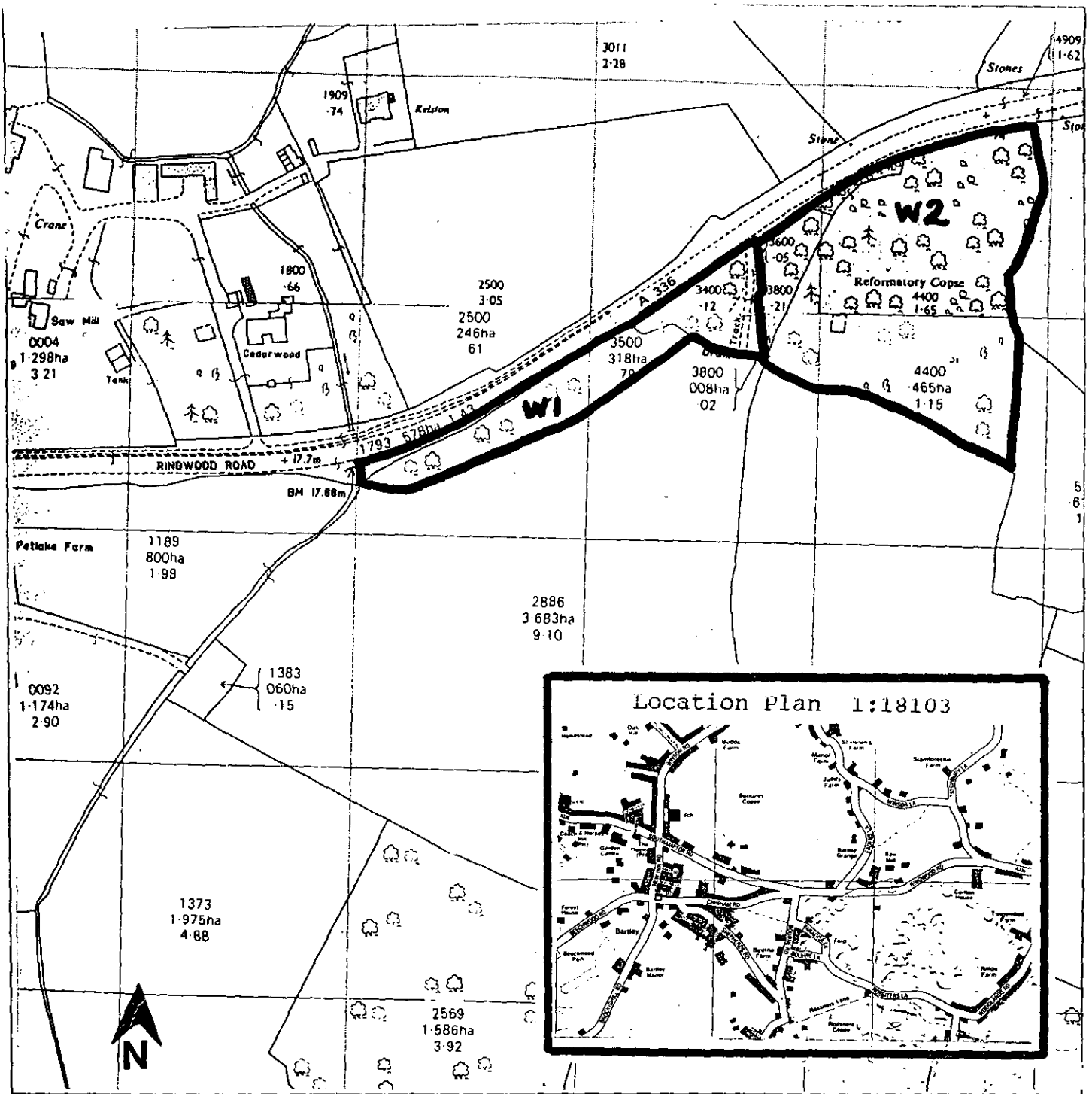
99 - (8) This section does not apply to such Order revoking or modifying a consent granted or deemed to have been granted by the Secretary of State under the Act, nor does it apply to an Order modifying any conditions to which a planning permission is subject by virtue of section 91 or 92 of the Act.

GIVEN under the COMMON SEAL of)
the DISTRICT COUNCIL OF NEW)
FOREST in the presence of:-)

Terry Simpson

AN AUTHORIZED
SIGNATORY





New Forest District Council Tree Preservation Order Plan

Terry Simpson
 AUTHORISEE SIGNATOR

Town and Country Planning Act 1990

T.P.O. Number: 26/93

Extract of O.S. Sheet: SU 3212/3312
 SU 3213/3313

Date: May 1993

Scale: 1:2500

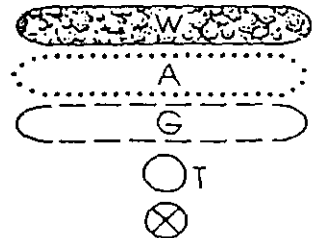
Notation: Woodland of Trees Covered by T.P.O.

Area of Trees Covered by T.P.O.

Groups of Trees Covered by T.P.O.

Individual Trees Covered by T.P.O.

Trees noted but Not Worthy of Preservation



E.S. Johnson B.A., F.R.I.C.S., F.R.T.P.I.
 Director of Planning, Appletree Court, Lyndhurst

DATED

17 MAY

1993

DISTRICT COUNCIL OF NEW FOREST

Town & Country Planning Act 1990

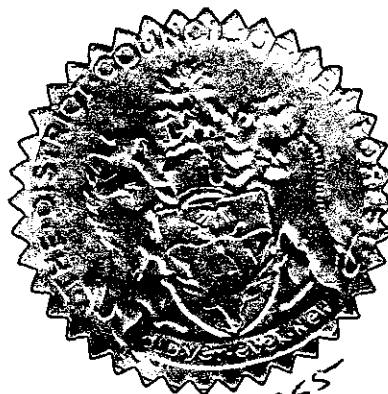
TREE PRESERVATION ORDER NO. 26/93

LAND SOUTH OF A336 BETWEEN JUNCTIONS
WITH EADENS LANE AND TATCHBURY LANE,
BARTLEY IN HAMPSHIRE

B. BUCHANAN
Chief Solicitor
New Forest District Council
Appletree Court
Lyndhurst
Hants. S043 7PA

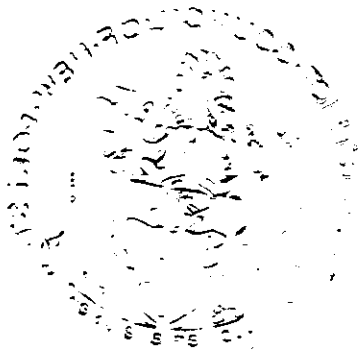
The District Council of New Forest in pursuance of the powers conferred upon them in that behalf hereby confirm the within written Order as an unopposed Order.

Given under the Common Seal of the District Council of New Forest this 23rd day of June One thousand nine hundred and ninety-three In the presence of



D.M. Milton

AN AUTHORISED SIGNATORY



... of the Council of the District of Columbia
... of the Council of the District of Columbia
... of the Council of the District of Columbia
... of the Council of the District of Columbia
... of the Council of the District of Columbia
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... of the Council of the District of Columbia

From: Norris, Steven [REDACTED] <[\[REDACTED\]@hampshire.pnn.police.uk](mailto:[REDACTED]@hampshire.pnn.police.uk)>
Sent: 08 December 2020 08:23
To: David Williams <David.Williams@newforestnpa.gov.uk>; [REDACTED] <[\[REDACTED\]@forestryengland.uk](mailto:[REDACTED]@forestryengland.uk)>; [REDACTED] <[\[REDACTED\]@naturalengland.org.uk](mailto:[REDACTED]@naturalengland.org.uk)>
Subject: 44200472903 - MESSAGE FROM HAMPSHIRE POLICE
Importance: High

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

This isn't about the A31.

We attended an incident last night where a male appears to have bought some woodland and decided to chop down a vast amount of trees. We attended last night after receiving a call from a concerned member of the public.

The informant [REDACTED] [REDACTED] and describes woodland as between Cadnam and Neltey Marsh off of Ringwood Road. The officers write up (minus the GDPR stuff) is below. I specifically note the new owners intention to turn this piece of woodland into a truck stop!

At 2145 on Monday 7th December, Police were called to a report of men cutting down trees with chain saws in a copse in Ringwood Road, between Cadnam and Netley Marsh. Information was received that a Mercedes Vito van - BV67*** was at the location.

Officers attended at 2300 and passed the Mercedes Van - BV67*** driving in the opposite direction. This was stopped and two occupants spoken to.

Officers attended the location of the tree cutting and saw a large amount of trees had been cut, and three males were present. Officers spoke with David ***.

David stated that he was the owner of the land, and that he had bought four acres of the woodland in an auction a couple of weeks ago. He stated that he bought the land for £228,000 from an Auctioneers in London called "Exclusive". David stated that he lives in Birmingham and had come down at night to specifically cut down the trees on his land with the two other males, as it was too dangerous during the day as the road (Ringwood Road) was so busy. He stated that he had cut the trees down in order to create an access area into his land, although there was an access road and metal five bar gate leading into his land about 100 metres away. He stated that he had no plans on how or when to remove the cut down trees.

David stated that he planned to build a truck stop with fuel service station on the land. He was asked whether he had permission to cut down the trees, and he stated that it was his land, so he didn't think he needed any permission. He stated that he had sent the NFDC a letter that day informing them that he will be cutting down trees on his land for access purposes, but stated that he had not waited for any response. David stated that he had not submitted any planning permission for his truck stop nor had he submitted any submission form to enquire about any TPO's in the area of his purchased land..

David stated that he had brought the two males with him down from Birmingham to cut down the trees. The two males were from Afghanistan and did not speak very good English. None of the males were wearing any Health and Safety equipment, and did not have any lighting – cutting the trees in the dark. David confirmed that he did not have a felling licence to cut down the large amount of trees.

The two other males from the Mercedes van returned and confirmed that they had been assisting David cutting down the trees.

David was told to stop the work, and informed that his details would be passed to NFDC.

Hampshire Constabulary currently use the Microsoft Office 2013 suite of applications. Please be aware of this if you intend to include an attachment with your email. This communication contains information which is confidential and may also be privileged. Any views or opinions expressed are those of the originator and not necessarily those of Hampshire Constabulary. It is for the exclusive use of the addressee(s). If you are not the intended recipient(s) please note that any form of distribution, copying or use of this communication or the information in it is strictly prohibited and may be unlawful. If you have received this communication in error please forward a copy to: informationsecurity@thamesvalley.pnn.police.uk and to the sender. Please then delete the e-mail and destroy any copies of it. DO NOT use this email address for other enquiries as the message will not be responded to or any action taken upon it. If you have a non-urgent enquiry, please call the police non-emergency number '101'. If it is an emergency, please call 999. Thank you.





LAND ADJACENT TO PETLAKE FARM, BARTLEY, SO40 7LA £100,000



Situated between the New Forest villages of Netley and Bartley, this 1.95 acre parcel of freehold land features a timber barn which might prove significant in taking forward any proposals for residential or commercial development. Any planning permission will be subject to a formal application - there have been no proposals put forward so far to New Forest.



0208 432 7330

www.exclusive-auctioneers.co.uk

sales@exclusive-auctioneers.co.uk

Unit 15C Baltimore House, Juniper Drive, London, SW18 1TS

Barn Plot
Area: 1.95 acres
(7910.75 m²)

Existing Timber Barn



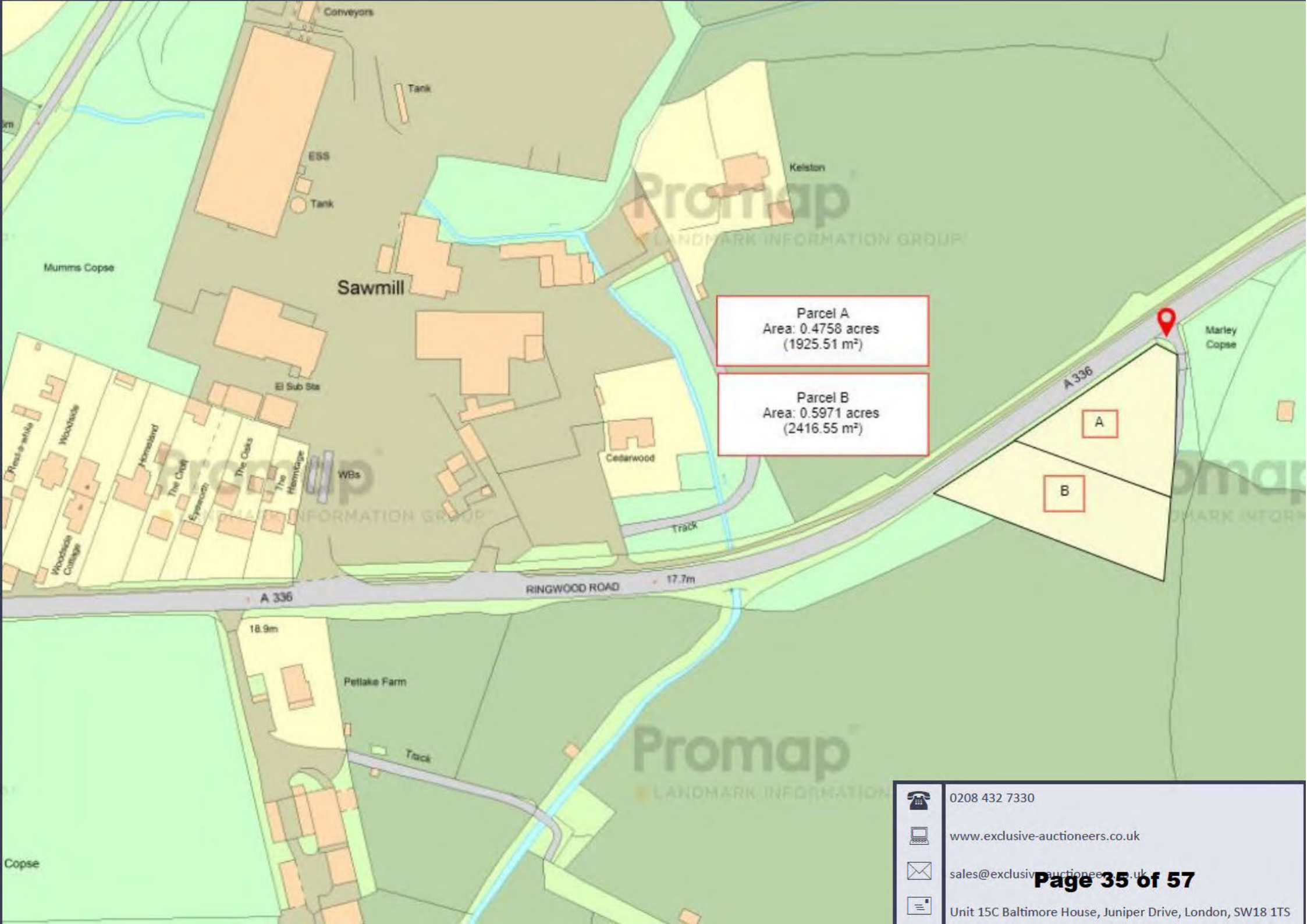
LAND ADJACENT TO PETLAKE FARM, BARTLEY, SO40 7LA £35,000



Situated between the New Forest villages of Netley Marsh and Bartley, these 2 parcels of freehold roadside land may offer a number of potential uses for equestrian or leisure pursuits whilst also offering the opportunity to explore residential or commercial development. Any planning permission will be subject to a formal application - there have been no proposals put forward so far to New Forest. There is excellent road access leading off the A336, and the site is understood to have a metered water supply and has been used to host numerous events and shows.

The sellers will be looking to retain a development overage on the sale in connection with any approved commercial or residential development, however any equine, horticultural or agricultural uses will be exempt.





Parcel A
Area: 0.4758 acres
(1925.51 m²)

Parcel B
Area: 0.5971 acres
(2416.55 m²)

	0208 432 7330
	www.exclusive-auctioneers.co.uk
	sales@exclusive-auctioneers.co.uk
	Unit 15C Baltimore House, Juniper Drive, London, SW18 1TS

Page 35 of 57

Exhibit 4 - Objection to Article 4 Direction

M. Joyce

[REDACTED]

[REDACTED]

H. Greenaway

[REDACTED]

[REDACTED]

FAO Enforcement Manager,

New Forest National Park Authority

10/13/2020

Ref: Article 4 Direction – Cadnam – Class A Part 2 of Schedule 2 GPDO

Dear Sir,

We are writing to you as joint owners of part of the land which is proposed to be the subject of an Article 4 direction restricting the erection of means of enclosure (fencing essentially).

The entire Article 4 area is a large agricultural field which has also been used in the past as a showground and to host equestrian competitions. In the summer of 2020, the field was notionally divided into a total of 16 plots (A to O plus a Barn Plot) for the purpose of sale (by auction) either as individual plots, combined plots or as a single entity.



In the event we purchased 3 plots (A, B and C above); the sale having been completed on 25/11/2020.

We also understand that plots D, F, I, J, L, N, P (the large block on the diagram with no reference) and E have been sold to a single buyer and therefore 6 plots (Barn Plot, G, H, K, M, O) remain unsold and are still on the market. The thick black lines are common access routes and are there to prevent any plot becoming effectively landlocked.

We are most concerned that the proposed Article 4 direction will prevent us from enclosing the land we now own. This would appear to be a basic requirement of land ownership and therefore not one that should be withdrawn. We note that the supporting information suggests that the Article 4 is not intended to prevent owners enclosing their land, although it is clear that the Article 4 requires planning applications for all fencing which of course can be approved or refused. It therefore must have the potential to prevent all owners enclosing their land and therefore we object to it on those grounds.

Given that the land ownership pattern of the Article 4 area has already started to emerge, it is clear that there are only two owners of the bulk of the land and therefore any concern over the mass subdivision of the land into each of the 16 constituent lots is unfounded.

We therefore do not think that the Article 4 direction is justified. Furthermore, if the suggestion that all owners will be able to enclose their land is correct, that provides implicit confirmation that planning applications will not be refused. That being so there is no reason to have the Article 4 direction in the first place. It would therefore appear to be adding control for control's sake.

We are currently unable to prevent people from driving/walking across the middle of our land and this is causing a lot of damage and rutting.

Whilst we want to work with the council to ensure that we work within your guidelines, we are sure you appreciate applying for planning permission is both time consuming and costly and aside from the planning application fee, will normally require appointment of specialists to prepare plans, etc. We contend that the concern which first prompted the Article 4 direction is unfounded and therefore the cost and inconvenience it will impose on others is not justified.

Yours Sincerely

M Joyce and H Greenaway



Tel [REDACTED]

Exhibit 5 - First Defendant – response to ROI

9. Nature of own interest in the land and premises	Truck Stop
10. Purpose for which land and premises are being used	None
11. Date when that use commenced	N/A
12. Name and address of any person as having used the premises/land for that purpose if applicable	N/A
13. Date when any other activities being carried on / at the site/premises began	N/A

I hereby certify that the above mentioned answers are true and correct to the best of my knowledge.

Signed ... 

Address...  BIRMINGHAM 

Date... 14/12/20.....

ADDRESS OF PROPERTY IN YOUR OWNERSHIP/INTEREST:

**Land and premises at – Lot 2 Petlake Farm Ringwood Road Bartley
Southampton SO40 7LA**

QUESTIONS	ANSWERS
1. Name and full address of the Occupier/Owner	DAVID [REDACTED] GAYCOM [REDACTED] BIRMINGHAM [REDACTED]
2. State whether the premises are held by the Occupier (a) as freehold or (b) on mortgage, give address at question 7 or (c) on weekly tenancy or (d) on agreement and for what period or (e) on lease and for what term	Freehold
3. If applicable - (a) Name and address of person to whom rent is paid (b) Is he an Agent for another person? If so give name and address of the other person	N/A
4. Name and address of the Freeholder	SAME AS ABOVE
5. In the case of a Limited Company, please give the address of the Registered Office	N/A
6. Name and address of the Leaseholder if applicable	N/A
7. Name and address of the Mortgagee if applicable	N/A
8. Name and address of anyone having an interest in the land/premises and state nature of such interest	N/A

NEW FOREST NATIONAL PARK AUTHORITY
REQUISITION FOR INFORMATION
TOWN & COUNTRY PLANNING ACT 1990 - SECTION 330
IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TO: David Qayumi [REDACTED] Birmingham [REDACTED]

The New Forest National Park Authority requires information regarding the land shown on the attached plan as **edged red**. **You are requested to edge blue the extent of your ownership/interest of any such land or property to assist in this matter.**

Two copies of the requisition for information are attached, one for your own retention and one to be completed and returned within **21** days. Please ensure you fill in all applicable boxes and sign before sending the form back to this office. Some of the questions may not be appropriate to you personally and you should mark these "N/A". It is however, necessary for this form to cover all types of ownership to ensure sufficient information is returned. An accompanying letter will not be necessary unless you wish to advise us of any further points you may think relevant.

Should you experience any difficulty in completing the form, please contact the Authority who will be only too pleased to try to assist you with any questions causing concern.

You should be aware that the above mentioned Section of the Act provides that any person who, without reasonable excuse, fails to comply with a requisition for information served on him shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £1000. The Section further provides that any person required by a Notice under this Section who knowingly makes any misstatement shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £5,000 or, on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.

It is therefore necessary for you to complete and return the form within the **21** days as stated.

Dated this day 15.12.20

Signed:.....*David Williams*

New Forest National Park Authority,
Lymington Town Hall
Avenue Road
Lymington
Hampshire, SO41 9ZG



David Qayumi

[REDACTED]
Birmingham
[REDACTED]

15 December 2020

Dear David Qayumi

Case Number: QU/20/0187
Investigation: Sub-division/change of use of field. Tree removal.
Site: Lot 2 Petlake Farm Ringwood Road (Terry's Patch), Bartley,
SO40 7LA

I write in connection with works undertaken at the land in the form of tree removal and works to create a new access/track.

To this end as a Breach of Planning Control has occurred, and that the New Forest National Park Authority is in a position to instigate legal proceedings if necessary, I enclose with this letter a Notice pursuant to Section 330 of the Town and Country Planning Act 1990 (as amended) which requires you to provide information about ownership of the property and of any other person who may have an interest in it. Please complete one of the Requisitions (retaining the other for your records) and return the required information within the following 21 days from the date of this letter.

Please read the warning on the first page of the Notice which advises of penalties should you choose not to supply the information. This Planning Authority will prosecute for non-compliance.

I would urge you to give this matter your immediate attention and look forward to receiving your replies within the time scales specified.

Should there be any further questions you may have please contact me direct on the email contact shown below.

Yours sincerely

[REDACTED]

David Williams
Planning Enforcement Manager
Email: david.williams@newforestnpa.gov.uk

NEW FOREST NATIONAL PARK AUTHORITY

REQUISITION FOR INFORMATION

TOWN & COUNTRY PLANNING ACT 1990 - SECTION 330

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TO: Michael Joyce and Helen Greenaway

The New Forest National Park Authority requires information regarding the land shown on the attached plan as **edged red**. **You are requested to edge blue the extent of your ownership/interest of any such land or property to assist in this matter.**

Two copies of the requisition for information are attached, one for your own retention and one to be completed and returned within **21** days. Please ensure you fill in all applicable boxes and sign before sending the form back to this office. Some of the questions may not be appropriate to you personally and you should mark these "N/A". It is however, necessary for this form to cover all types of ownership to ensure sufficient information is returned. An accompanying letter will not be necessary unless you wish to advise us of any further points you may think relevant.

Should you experience any difficulty in completing the form, please contact the Authority who will be only too pleased to try to assist you with any questions causing concern.

You should be aware that the above mentioned Section of the Act provides that any person who, without reasonable excuse, fails to comply with a requisition for information served on him shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £1000. The Section further provides that any person required by a Notice under this Section who knowingly makes any misstatement shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £5,000 or, on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.

It is therefore necessary for you to complete and return the form within the **21** days as stated.

Dated this day 15.12.20

Signed:.....*David Williams*

New Forest National Park Authority,
Lymington Town Hall
Avenue Road
Lymington
Hampshire, SO41 9ZG

ADDRESS OF PROPERTY IN YOUR OWNERSHIP/INTEREST:

**Land and premises at – Lot 2 Petlake Farm Ringwood Road Bartley
Southampton SO40 7LA**

QUESTIONS	ANSWERS
1. Name and full address of the Occupier/Owner	HELEN GREENAWAY MICHAEL JOYCE [REDACTED]
2. State whether the premises are held by the Occupier (a) as freehold or (b) on mortgage, give address at question 7 or (c) on weekly tenancy or (d) on agreement and for what period or (e) on lease and for what term	(a) FREEHOLD
3. If applicable - (a) Name and address of person to whom rent is paid (b) Is he an Agent for another person? If so give name and address of the other person	N/A
4. Name and address of the Freeholder	HELEN GREENAWAY MICHAEL JOYCE [REDACTED]
5. In the case of a Limited Company, please give the address of the Registered Office	N/A
6. Name and address of the Leaseholder if applicable	N/A
7. Name and address of the Mortgagee if applicable	N/A
8. Name and address of anyone having an interest in the land/premises and state nature of such interest	N/A

9. Nature of own interest in the land and premises	OWNER
10. Purpose for which land and premises are being used	AGRICULTURE AND LAND HUSBANDRY
11. Date when that use commenced	25 / 11 / 20
12. Name and address of any person as having used the premises/land for that purpose if applicable	N/A
13. Date when any other activities being carried on / at the site/premises began	N/A

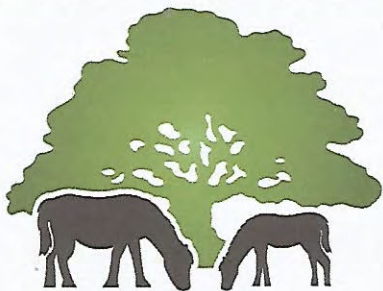
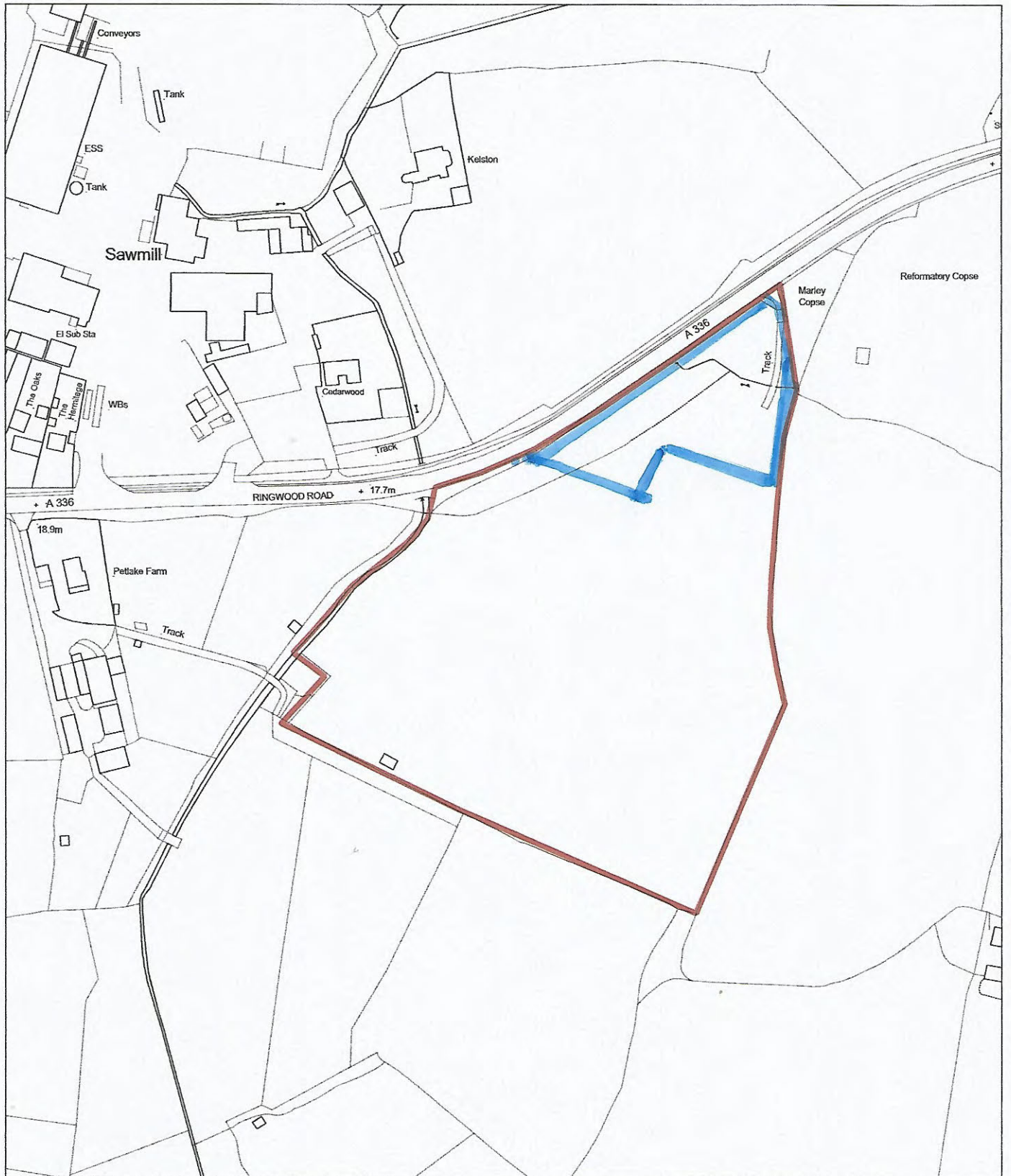
I hereby certify that the above mentioned answers are true and correct to the best of my knowledge.

Signed 

Address 



Date 17 / 12 / 20



**NEW FOREST
NATIONAL PARK**

New Forest National Park Authority
Lymington Town Hall
Avenue Road
Lymington
SO41 9ZG

Tel: 01590 646600
Fax: 01590 646666

Date: 09/12/2020

LOCATION PLAN

Land at Lot 2
Petlake Farm
Ringwood Road
Bartley
Southampton SO40 7LA
known as 'Terry's Patch'

SCALE: 1:2500



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Exhibit 7 - Email from First Defendant

Email exchanges with Mr Qayumi 11th – 13th December 2020

From: David [REDACTED] Qayumi [REDACTED]
Sent: 13 December 2020 13:33
To: David Williams <David.Williams@newforestnpa.gov.uk>
Subject: Re: Mr Qayumi - Lot 2 Petlake Farm, Ringwood Road, Bartley, Southampton (SO40 7LA) known as 'Terry's Patch'

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear David,

Please see attached, the red lines are my boundaries.

I did state earlier that I'll not carry on with any development works.

I have received your legal team's email that you are proceeding with a court order but I can assure you that there is no need to.

I need your consent to remove the trees that are fell and for any other works, I'll submit a planning application.

I'll be in Southampton next week sometimes and I'd like to meet up with you.

Regards
David Qayumi

On 11 Dec 2020, at 17:08, David Williams <David.Williams@newforestnpa.gov.uk> wrote:

David

Attached is a copy of a site notice which is to being erected at the site gate which summarises the planning position which we have already discussed, to reinforce the position to all land owners.

A further communication will be sent to you shortly with regards preventing any further tree removal form the site.

Hopefully we can catch up further next week.

Thanks

David Williams
Planning Enforcement Manager
david.williams@newforestnpa.gov.uk

From: David Williams

Sent: 11 December 2020 11:30

To: David [REDACTED] Qayumi [REDACTED]

Subject: RE: Mr Qayumi - Lot 2 Petlake Farm, Ringwood Road, Bartley, Southampton (SO40 7LA) known as 'Terry's Patch'

Good morning David

Happy to meet at some point. I would suggest that at this stage to save any wasted journey that you set out the following details to enable the relevant advice to be provided.

1. Clarification that no further tree felling will be undertaken without any authorised consent is in place.
2. Provision of a plan to show the land which is now within your control or you have an interest in.
3. Details of your intentions for the land. In a plan / layout or schedule of proposals.

I must re emphasis the contents of my earlier email in that no further works should be undertaken at the site until the relevant planning implications and permissions applied for.

The site has very strong planning policy restrictions so there is not much that can be done with what effectively is a protected agricultural field.

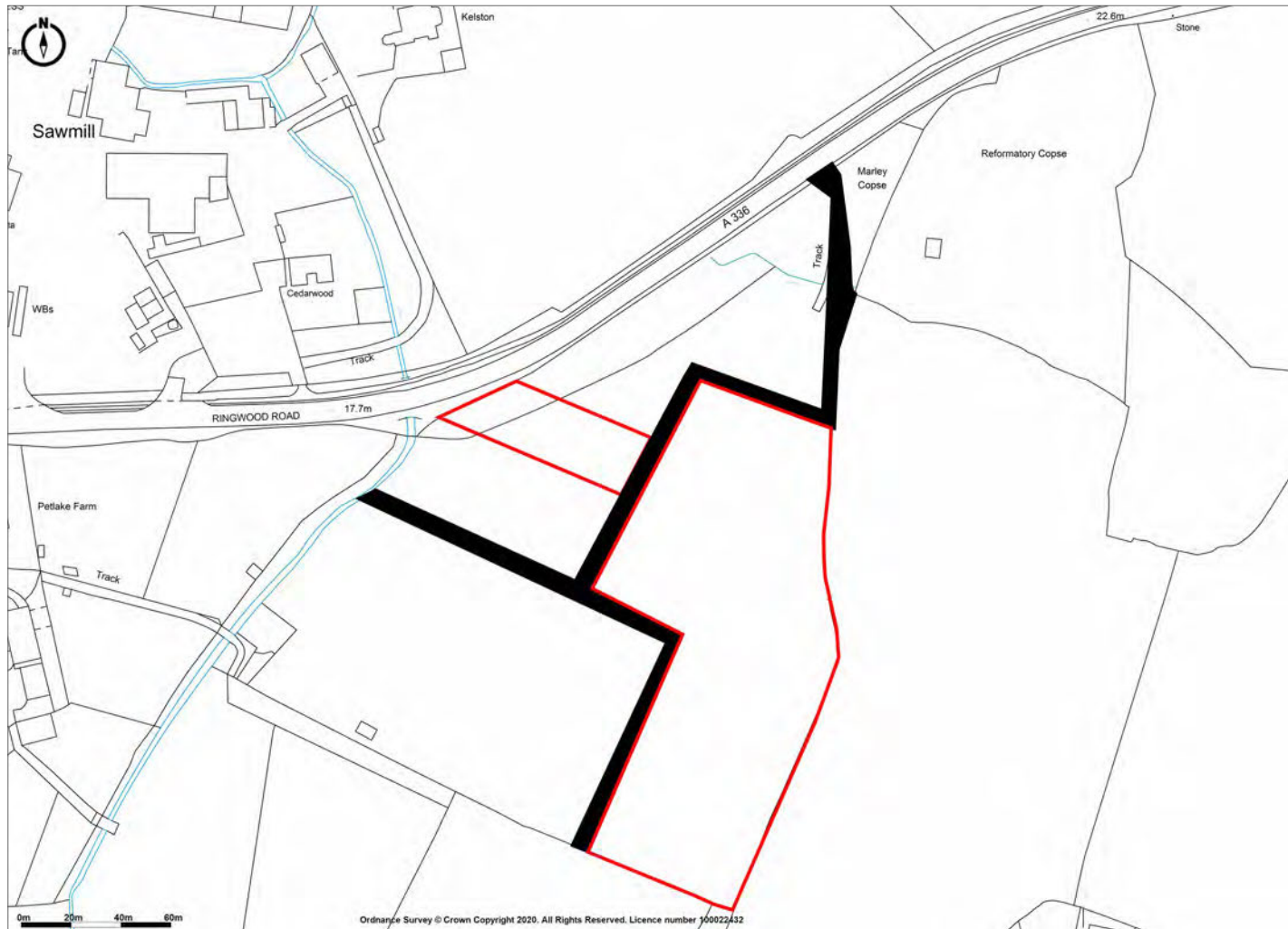
I look forward to your information accordingly.

Regards

David Williams

Planning Enforcement Manager

david.williams@newforestnpa.gov.uk



Promapv2
LANDMARK INFORMATION

Ordnance Survey Crown Copyright 2020. All rights reserved.
Licence number 100022432.
Plotted Scale - 1:2750. Paper Size – A4

Exhibit 8 - Email from Exclusive Auctioneers

From: [REDACTED] [REDACTED]@exclusive-auctioneers.co.uk>
Sent: 15 December 2020 15:57
To: David Williams <David.Williams@newforestnpa.gov.uk>
Subject: RE: Injunction papers Land At Terrys Patch Ringwood Road Bartley New Forest

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi David

Many thanks for this but I can see from the paperwork you already know David.

I just called him as I had heard it was David who cut the tree down and he confirmed he already has this from you and please rest assured he has received it, I shall also forward to our client who owns the remaining land

Kind regards

[REDACTED] | [REDACTED]
Tel: [REDACTED] | Mob: [REDACTED]
Email: [REDACTED]@exclusive-auctioneers.co.uk
Web: www.exclusive-auctioneers.co.uk



Unit 15C Baltimore House, Juniper Drive Battersea Reach London SW18 1TS

*Professional Indemnity Insurance and commercial crime cover to £1,000,000
All communications are on a subject to contract and without prejudice basis
Barney Estates Ltd T/a Exclusive Estates & Auctioneers*

NEXT AUCTION 22nd DECEMBER - LOTS INVITED NOW

From: David Williams <David.Williams@newforestnpa.gov.uk>
Sent: 15 December 2020 15:40
To: [REDACTED] <[REDACTED]@exclusive-auctioneers.co.uk>
Subject: FW: Injunction papers Land At Terrys Patch Ringwood Road Bartley New Forest

[REDACTED]

The Authority has obtained an injunction relating to tree removal at the above site .

At this stage it is unclear which parties Exclusive Auctioneers may still represent in terms of land ownership, I have therefore copied you in with the relevant papers so that you can consider and forward to any parties to whom you act or have an interest in. I will send in 3 bundles due to file sizes.

Kind regards

David Williams
Planning Enforcement Manager
david.williams@newforestnpa.gov.uk

Exhibit 9 - witness statement of Andrew Paul Maplethorpe

Filed on behalf of: Claimant
Initial and surname of witness: A
Maplethorpe
Statement No: 1
No of exhibits:
Date Statement made: 17.12.2020

IN THE HIGH COURT OF JUSTICE

CLAIM : QB-2020-004363

QUEEN'S BENCH DIVISION

**NEW FOREST NATIONAL PARK
AUTHORITY (NPA)**

Claimant

And

**MR DAVID QAYUMI & PERSONS
UNKNOWN**

Defendant

**WITNESS STATEMENT OF
ANDREW PAUL MAPLETHORPE**

I, **ANDREW PAUL MAPLETHORPE**, of KPEA (UK) Limited, 27 Prospect Lane, Solihull, B91 1HN, **WILL SAY AS FOLLOWS:**

- 1 I am employed by KPEA (UK) Limited as a Process Server. I make this statement in support of efforts to effect personal service of the Claimant's proceedings in this matter.
- 2 I was requested to serve the Defendant with the following documentation:
 1. Letter from New Forest National Park dated 11th December 2020

2. Injunction Order dated 11th December 2020

3. Witness Statement with Exhibits

4. N208 Claim Form

5. N244 Application

3. At 12:00 noon on Saturday 12th December 2020 I attended [REDACTED] Birmingham, [REDACTED] but could obtain no reply. No neighbours were available for enquiry.
4. At 11:15am on Monday 14th December 2020 I returned to [REDACTED] but could obtain no reply. No neighbours were available for enquiry but enquiries with workmen performing maintenance in the street stated no activity had been seen at [REDACTED] since they had started work at 8:30am that day. I telephoned the Defendant on the mobile telephone number [REDACTED] provided by my instructing solicitor but could obtain no reply. Voicemails left for the Defendant have not produced a response.
5. At 7:25pm on Monday 14th December 2020 I returned to [REDACTED] but could obtain no reply. Enquiries with neighbours confirmed the Defendant continues to reside at [REDACTED] on a regular basis. I telephoned the Defendant on [REDACTED] but could obtain no reply and my call was eventually diverted to voicemail.
6. I received further instructions to make one more attendance and if personal service could not be effected to post the documents for the attention of the Defendant.
7. At 11:00am on Thursday the 17th day of December 2020 I again attended at [REDACTED] and once again there was no reply. On the drive was an adult female I estimate to be in her early thirties who stated the Defendant was not at home at the time of my visit but confirmed he continues to reside at [REDACTED]

██████████ on a regular basis and any documents left for him would come to his attention. The female declined to answer any more of my questions once she became aware documents were being delivered to the Defendant. I therefore inserted the aforementioned documents into an envelope address to the Defendant marked private and confidential and posted same through the letter box at ██████████ Birmingham, ██████████

8. To the best of my knowledge and belief the documents will come to the attention of the Defendant.

STATEMENT OF TRUTH

I believe that the facts stated in this Witness Statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Full name: Andrew Paul Maplethorpe

Name of Claimant: New Forest National Park

Signed: ██████████

Print name: ANDREW PAUL MAPLETHORPE

Dated: 7/12/20

Exhibit 10 - Ms Greenaway and Mr Joyce – details of service

From: Helen Greenaway [REDACTED]
Sent: 17 December 2020 06:42
To: David Williams <David.Williams@newforestnpa.gov.uk>
Cc: [REDACTED]
Subject: Re: Injunction papers : Land at Terry's Patch Plot2 Petlake Farm Farm Ringwood Road Bartley

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Mr Williams

Thank you for the emails that you have forwarded to us.

We were aware of the Woodland TPO when we made our purchase of Plots A, B and C, and that we had a large portion of Marley Copse within our boundaries. [REDACTED] is in the arbour business and had fully informed us of the importance of remaining within the rules of the TPO and the need to get permission in advance of doing any work in relation to the Copse and the penalties that we would face if we did not get permission.

We have not done any work on our land, other than pick up other people's rubbish, and show our planning consultant around our boundaries, so that he can help us to complete the Planning application to allow us to secure our land with a fence and to work on clearing some of the debris from our ditch so that the water would run away better. We can see that the ditches around the whole field have not been maintained for a very long time, and that this is affecting the drainage of the field as a whole.

We planned to enjoy and maintain the Copse in line with all recommendations of the NFDC, and are shocked to hear of the tree felling which has occurred between our visits on the 5th and 12th Dec. Both times we have arrived to an unlocked gate despite us providing a padlock and chain.

All of the Trees that have been felled apparently by the other owner were situated in his plot. He has not made any attempt to cut any trees in our plot, although we can see that one of his felled trees has fallen over the boundary rope into our plot, but it does not look like it hit or damaged any of our trees. He has also driven right across our land to reach his plot and rutted up the field.

The other owner had marked out his plots and the designated track using stakes and rope. Our plot was marked out and rope from the road is still in place and you can clearly see that no trees have been felled on our side of the rope. See your photo JP EX5 Part 2 Photo 2. The rope is attached to a stake painted white on the right of the picture, and you can see its line. The rope is still in place on site.

Please see below our plot co-ordinates, so that you can check our boundaries against an OS Map.

432358, 113021

432365, 113017

432360, 112932

432311, 112950

432296, 112921

432242, 112944

We want to make it very clear that we had no prior knowledge of the felling taking place and in no way condone the actions of the other owner.

As you can imagine, we are very concerned that we are being included in the legal documents, as we appear to be being treated like criminals, when in fact we have no connection to the other owner and had no knowledge of his actions. The only association being that we bought our plots from The Really Useful Land Company via the Exclusive Auctioneers. Our plots being the first to become available.

What should have been an exciting time for us, owning a small area of the field and planning our crops has been completely tainted, firstly by the Article 4, which was going to mean we would incur additional costs just to erect/repair the fencing and now we are being included in legal documents and may cost us a lot of extra money to get legal advice for something we had no control over.

We understand that the council needed to act to stop any further felling, but we do not wish to be associated with this action in any way or in any publicity that it might attract. Our family and friends are local to the area and we do not want this to affect any of our relationships.

We also hope that this mis-association does not have a detrimental effect on our relationship with your planning department as we ask for permissions to fence and manage the land that we own.

Obviously, a further consideration is that his actions and that of the council will have a negative impact on the value of our plots in the future.

Can you please confirm if with the injunction in place, we would be allowed to clear the silt and debris from the ditch to allow the water to run off the land more freely?

Also, would we be allowed to cut back any brambles to give us better access to the ditch?

We look forward to this being cleared up so that we can move forward.

If you need any further information, please feel free to contact us.

Kind Regards

Helen Greenaway and Mike Joyce

Attached is a copy of our ROI, A Plot Map of Terry's Patch, and Our Land Coordinates as supplied by Exclusive Auctioneers.

On Tuesday, 15 December 2020, 15:59:23 GMT, David Williams <david.williams@newforestnpa.gov.uk> wrote:

Email 3 of 3

At the present time I am best contacted by email should you wish to clarify any further points.

Kind regards

David Williams

Planning Enforcement Manager

david.williams@newforestnpa.gov.uk

From: David Williams

Sent: 15 December 2020 15:56

To: [REDACTED]

Subject: Injunction papers : Land at Terry's Patch Plot2 Petlake Farm Farm Ringwood Road Bartley

Dear Helen and Mike

Please find attached an email copy of injunction documents, a hard copy of which is being sent in the post to both of your addresses.

First of all thank you for the information provided with regards your new interest in part of the land. I am obliged to include you in the serving of papers as land to which you state you have an interest is subject of an injunction safeguarding the trees at the site.

This has been necessary following attempts to fell trees in a neighbouring plot.

I would urge you to review the papers and seek legal advice if necessary.

I will send these as 3 separate emails due to file sizes.

Kind regards

David Williams

Planning Enforcement Manager

david.williams@newforestnpa.gov.uk