

NEW FOREST NATIONAL PARK AUTHORITY

PLANNING COMMITTEE – 20 AUGUST 2024

NON-COMPLIANCE WITH ENFORCEMENT NOTICE

24/0039/EC THE OLD QUARRY (DOCTORS COPSE), SOUTHAMPTON ROAD, BOLDRE, LYMINGTON, SO41 8ND

Report by: Katherine Pullen, Planning Enforcement Officer

1 Summary

- 1.1 This report concerns a breach of planning control at The Old Quarry (formerly known as Doctors Copse), Southampton Road, Boldre, Lymington, SO41 8ND. In March 2024 the Authority received a complaint, following previous complaints regarding activity at the site, that the land was being used for timber processing and open storage. It has been established that the land was not being used for timber processing but was being used for the open storage of various items including scrap material, tyres, timber panels, and numerous vehicles.
- 1.2 An Enforcement Notice was issued on 15 April 2021 alleging:

Without planning permission, the material change of use of the land from woodland to a mixed use of woodland and the storage of scrap, waste, tyres, timber panels, vehicles, and fly-tipped and other materials not related to the woodland use, including the use of a timber shed for the storage of metal parts and other non woodland related paraphernalia.'
- 1.3 The requirements of the Notice were:
 - Permanently cease the use of the land for the storage of scrap, waste, tyres, timber panels, vehicles, and fly-tipped and any other non woodland related materials.
 - Permanently remove all items listed in 5.1 above from the site.
 - Reinstate the land to its natural ground level and leave clear to allow native self-seeded vegetation to re-establish.
 - Cease the use of the shed for any non woodland related storage including metal parts and other materials, and permanently remove all such materials from the land.
- 1.4 In the absence of any appeal, the Notice took effect on 24 May 2021 and provided a compliance period of six months. The Notice is recorded as being broadly complied with in February 2023 and the case was closed. However, compliance with an

Enforcement Notice does not discharge the Notice and it continues to have effect in so far as a subsequent breach of the requirements of a Notice constitute an offence under Section 179 of the Town and Country Planning Act.

- 1.5 The open storage of various items including scrap material, tyres, timber panels, and numerous vehicles results in a breach of the requirements of the Enforcement Notice. The owner has not engaged positively with the Authority or taken any steps to remedy the situation. No feasible defence has been established. This report therefore seeks Members' approval to prosecute those persons responsible who continue to breach the requirements of the Enforcement Notice - to the detriment of the landscape and neighbouring owners.

2 Background

- 2.1 Following complaints received by the Enforcement team, an initial site visit on 05 April 2024 found evidence of various materials such as scrap, tyres, timber and vehicles being stored in the open. A further site visit was carried out in May 2024 and it was established during an interview under caution that one of the owners was residing at the in one of the vehicles that was being stored.
- 2.2 The Authority has taken steps to engage with the owner of the site and advised what action is required to remedy the situation and the consequences of the breach continuing. Despite these attempts there has been no response or change in the condition of the land no other remedial steps have been taken.
- 2.3 The Enforcement Notice was issued on 15 April 2021 as detailed above.
- 2.4 Following the site visit in May 2024, when Officers met with one of the owners of the site, it was clear that the items being stored resulted in a breach of the Notice. Since that visit, despite attempts to engage with the occupier of the land, officers have not received any response and no positive steps have been taken to improve the condition of the site an comply with the Notice.
- 2.5 The Enforcement Officer has provided the owner/s with clear and comprehensive advice both verbally on site and through written communication. The Authority has taken all reasonable steps to encourage the person responsible to comply with the requirements of the Enforcement Notice. Should Members feel it necessary to discuss the particulars of the enforcement investigation in more detail it is likely to require the matter to be taken to Part II of the meeting due to the sensitive nature of such investigations.

3 Next Steps

- 3.1 The Authority should now decide the most appropriate course of action in the circumstances.
- 3.2 The Authority may now choose to prosecute the persons responsible for noncompliance with the Notice which is an offence under Section 179 of the Town and Country Planning Act 1990, as amended (the 'Act'). The owner, and any person who

has control of an interest in the land to which an enforcement notice relates may be guilty of an offence.

- 3.3 Prior to commencing a prosecution, the Authority needs to be satisfied firstly that there is a realistic prospect of success and secondly that commencing prosecution proceedings would be in the wider public interest. The Authority is satisfied that there is an adequate prospect of success given the evidence available. As to the public interest in taking action, the enforcement of planning control is in the wider public interest of the community by preventing inappropriate and harmful development within a special environment of national significance, the New Forest National Park. The Authority's prosecution of the persons responsible would be in accordance with the powers conferred upon it by the Act, and also appears to be both proportionate and supported by the wider public interest, especially in view of the harm caused by this breach.
- 3.4 Breaching the requirements of an Enforcement Notice leaves the owner liable to an unlimited fine. In the circumstances, it is therefore considered expedient, necessary, and proportionate to commence proceedings as outlined above.
- 3.5 The Authority also has the power to enter land and take the steps required by notices issued under the provisions of the Act where those requirements have not been complied with in the time specified by the Notice. This would be an effective way of remedying the breach but would involve the significant outlay in employing a specialist contractor to do the works. We may recover any reasonably incurred expense in exercising our direct action powers by placing a charge on the land.
- 3.6 In any event, any further action taken by the Authority would be in accordance with the powers conferred upon it by the Act, and also appears to be both proportionate and supported by the wider public interest, especially in view of the harm caused by this breach.
- 3.7 It is therefore considered expedient, necessary, and proportionate to take further enforcement action given the history of the site as set out above, subject to consideration of any further evidence that may be received regarding noncompliance. It is recommended that Members authorise officers to consider any further evidence received, if any, in order to form a view as to whether to proceed with a prosecution, and either to commence with a prosecution or to take direct action / or other enforcement steps as considered appropriate in the light of any material submitted.

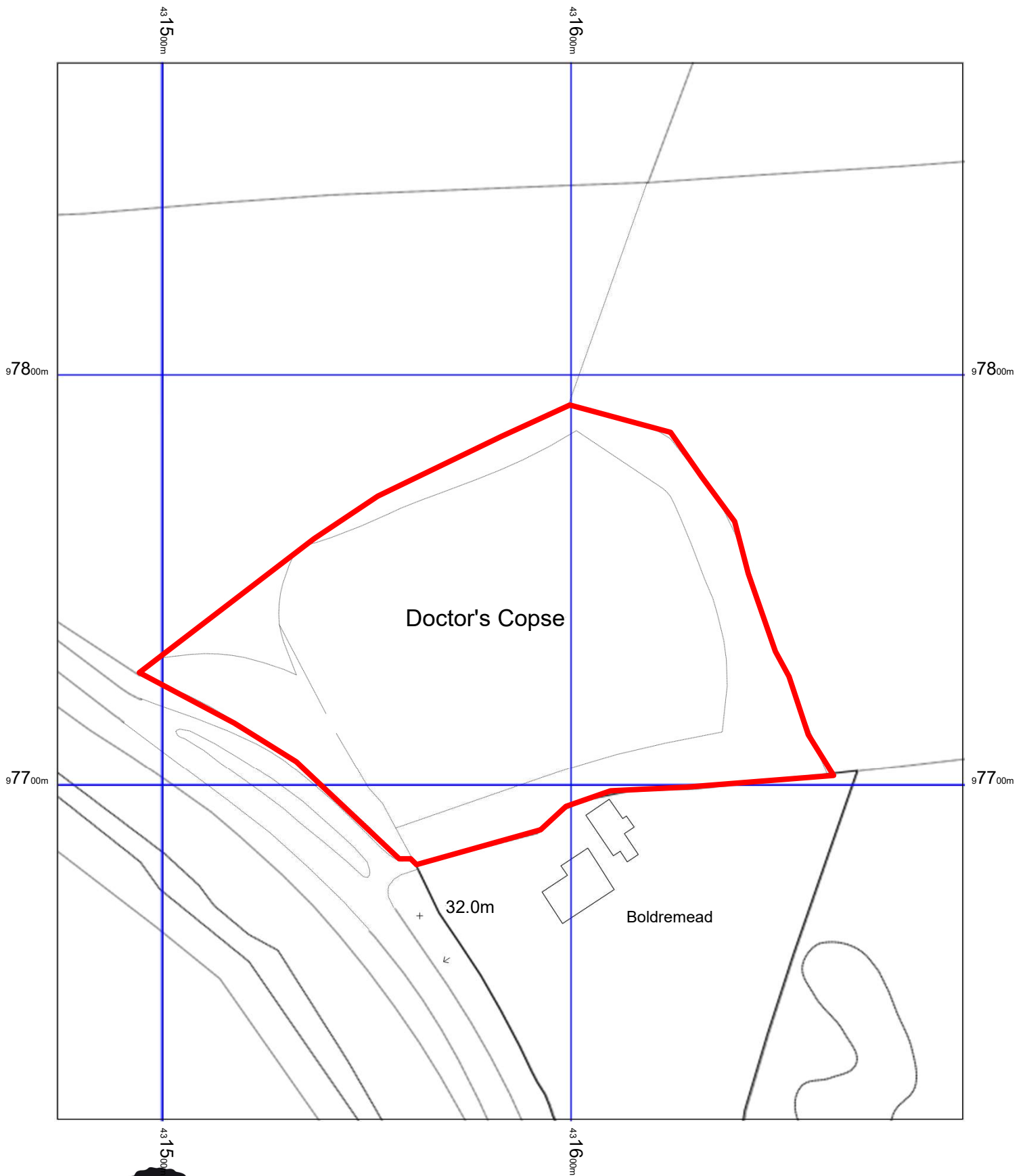
RECOMMENDATION:

Members authorise the Authority's Executive Director Strategy and Planning, in consultation with the Solicitor and the Enforcement Manager, to:

- i. consider the further evidence, if any, submitted in respect of any purported impediment to compliance and form a view as to the appropriate course of action to achieve compliance with the Notice; and**
- ii. if officers are in agreement that it is appropriate to do so, in light of any further information referred to in paragraph (i) above, take all action as necessary to**

commence and conduct the prosecution of the persons responsible for the Breach of the Enforcement Notice at The Old Quarry (formerly known as Doctors Copse), Southampton Road, Boldre, Lymington, SO41 8ND; or

- iii. if it is not considered appropriate to commence a prosecution, to consider and take such other action as necessary to achieve compliance with the Notice including taking direct action and any other steps as necessary to recover the costs of so doing from the owners, including arranging for a charge to be placed on the land.**



NEW FOREST
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