



# Strategic and Technical Planning Committee

**Date:** Tuesday, 11 October 2022  
**Time:** 10.00 am  
**Venue:** Council Chamber, County Hall, Dorchester, DT1 1XJ

## Members (Quorum 6)

Robin Cook (Chairman), John Worth (Vice-Chairman), Shane Bartlett, Dave Bolwell, Alex Brenton, Kelvin Clayton, Jean Dunseith, Mike Dyer, Sherry Jespersen, Mary Penfold, Belinda Ridout and David Tooke

**Chief Executive:** Matt Prosser, County Hall, Dorchester, Dorset DT1 1XJ

For more information about this agenda please contact Democratic Services Meeting Contact 01305 224202 - [elaine.tibble@dorsetcouncil.gov.uk](mailto:elaine.tibble@dorsetcouncil.gov.uk)

Members of the public are welcome to attend this meeting, apart from any items listed in the exempt part of this agenda.

For easy access to all the council's committee agendas and minutes download the free public app called Modern.Gov for use on any iPad, Android, and Windows tablet. Once downloaded select Dorset Council.

## Agenda

Item	Pages
<b>1. APOLOGIES</b>	
To receive any apologies for absence.	
<b>2. MINUTES</b>	3 - 20
To confirm the minutes of the meeting held on 4 April 2022.	
<b>3. DECLARATIONS OF INTEREST</b>	
To disclose any pecuniary, other registrable or non-registrable interests as set out in the adopted Code of Conduct. In making their disclosure councillors are asked to state the agenda item, the nature of the interest and any action they propose to take as part of their declaration.	

If required, further advice should be sought from the Monitoring Officer in advance of the meeting.

#### **4. PUBLIC PARTICIPATION**

Members of the public wishing to speak to the Committee on a planning application should notify the Democratic Services Officer listed on the front page of this agenda. This must be done no later than two clear working days before the meeting. Please refer to the [Guidance for speaking at Planning Committee - August 2022.pdf \(dorsetcouncil.gov.uk\)](https://www.dorsetcouncil.gov.uk)

**The deadline for notifying a request to speak is 8.30am on Friday 7 October 2022.**

#### **5. URGENT ITEMS**

To consider any items of business which the Chairman has had prior notification and considers to be urgent pursuant to section 100B (4) b) of the Local Government Act 1972. The reason for the urgency shall be recorded in the minutes.

#### **6. APPLICATION TO RECORD A TOWN OR VILLAGE GREEN AT STONY DOWN PLANTATION, CORFE MULLEN**

21 - 40

To consider a report of the Definitive Map Team Manager.

#### **7. EXEMPT BUSINESS**

To move the exclusion of the press and the public for the following item in view of the likely disclosure of exempt information within the meaning of paragraph x of schedule 12 A to the Local Government Act 1972 (as amended).

The public and the press will be asked to leave the meeting whilst the item of business is considered.

**There is no exempt business.**



## **STRATEGIC AND TECHNICAL PLANNING COMMITTEE**

### **MINUTES OF MEETING HELD ON MONDAY 4 APRIL 2022**

**Present:** Cllrs Robin Cook (Chairman), John Worth (Vice-Chairman), Dave Bolwell, Alex Brenton, Kelvin Clayton, Jean Dunseith, Sherry Jespersen, Mary Penfold, Belinda Ridout and David Tooke

**Apologies:** Cllrs Shane Bartlett and Mike Dyer

**Also present:** Cllr David Walsh (Cabinet Member for Planning)

**Officers present (for all or part of the meeting):**

Philip Crowther (Legal Business Partner - Regulatory), Mike Garrity (Head of Planning), Elaine Tibble (Senior Democratic Services Officer), Gemma Clinton (Head of Commercial Waste and Strategy), Sara Hardy (Senior Planning Officer (M&W)), Steve Savage (Transport Development Manager), Felicity Hart (Minerals and Waste Planning Manager) and Steve Wallis (Senior Archaeologist)

**47. Minutes**

The minutes of the meetings held on:  
9 December 2019, 27 May 2021, 12 July 2021, 9 August 2021,  
6 September 2021, 22 November 2021, 15 December 2021 and  
24 January 2022 were agreed and signed as a correct record.

**48. Declarations of Interest**

No declarations of disclosable pecuniary interests were made at the meeting.

Cllr Penfold declared that her son had in the past had a unit near the site and Cllr Tooke declared that he had sat on the AONB Board but not discussed this item.

**49. Application No: P/DCC/2021/01597 - Land south-east of Sunrise Business Park and north of the A350 Blandford Bypass, Blandford Forum.**

The Senior Planning Officer, Minerals and Waste presented the application for the development of a waste management centre for the bulking and transfer of waste and recyclables. This comprised a covered waste transfer station, with waste storage, sprinkler tank and pump house, and a split-level household recycling centre with vehicle unloading bays and partially covered central yard, a dedicated 're-use centre', WEEE storage building, office building, staff parking area, weighbridge and associated landscaping. Formation of new access from A350.

Members were advised that a need had been identified for a replacement modern waste management centre in the area and the proposed site had been allocated in the recently adopted Bournemouth, Christchurch, Poole and Dorset Waste Plan (2019) covering approx. 3.5 hectares of land.

With the aid of a visual presentation the Senior Planning Officer, Minerals and Waste highlighted the relevant areas of the application and explained the proposals for the buildings, access, plan layout, landscape enhancement and lighting. The hydrogeological and heritage assets were also addressed. There were no objections on highways safety grounds nor the Environmental Agency.

Taking everything into account it was considered that there were significant and substantial public benefits and exceptional circumstances to the scheme which outweighed the adverse impacts on the AONB. The Officer recommendation was to grant the application with some suggested revised conditions relating to the lighting, handling of waste within the proposed transfer building and the transfer building doors.

Oral representation in objection to the application was received from: Councillor Jennifer Morisetti -The Waste Team lead for Dorset Climate Action Network and a Trustee of Sustainable Dorset and Richard Burden – on behalf of Cranborne Chase AONB. Their comments related to the size of the proposed building, the effect on the AONB and disturbance of the archaeological site, the effect on the landscape plus the location of the attenuation pond.

The Head of Commercial Waste and Strategy (Dorset Council), one of the project sponsors addressed the committee in support of the application.

The Head of Planning reminded the committee that the site had been allocated through the Local Plan process and therefore the planning inspector had already confirmed its suitability. The principle had been established through the plan.

In response to member questions Officers advised that there was no public pedestrian or cycle access to the site proposed in the scheme. However, the existing footbridge link across the A350 to the east of the site might provide such access in the future if residential development to the east was approved and a suitable connection could be provided.

Officers were unable to give assurances that the current advisory one-way system for HGV's on the adjacent strategic highway network would apply to this site but the presumption was that it would continue to be observed.

In relation to detailed conditions and landscape management plan, these matters had been agreed as acceptable by the Council's landscape colleagues and more conditions were not considered necessary. Proposals did not include the photovoltaic panels to be included at this stage and there were no plans for rainwater harvesting.

On balance the committee members were supportive of the application and the need for the facility in the area. Although they would have liked to see the addition of solar panels and footpaths these were not part of the application and not defensible reasons for refusal.

It was proposed by Cllr Brenton and seconded by Cllr Jespersen.

**Decision:** that the application be granted subject to an amended condition to shorten the duration of the motion lights to a maximum of 5 minutes, unless agreed with local planning authority that due to operational reasons this needed to be longer, this could be agreed as part of lighting scheme. Plus the conditions attached as an appendix to these minutes.

50. **Urgent items**

There were no urgent items

51. **Exempt Business**

There was no exempt business.

**Appendix**

**Duration of meeting:** 10.00 - 11.50 am

**Chairman**

.....

This page is intentionally left blank

## Strategic and Technical Planning Committee 04 April 2022 Decision List

**Application Reference:** P/DCC/2021/01597

**Application Site** Land south-east of Sunrise Business Park and north of the A350 Blandford Bypass, Blandford Forum.

**Proposal:** Development of a waste management centre for the bulking and transfer of waste and recyclables, comprising a covered waste transfer station, with waste storage, sprinkler tank and pump house, and a split-level household recycling centre with vehicle unloading bays and partially covered central yard, a dedicated 're-use centre', WEEE storage building, office building, staff parking area, weighbridge and associated landscaping. Formation of new access from A350.

**Recommendation:** GRANT subject to conditions.

**Decision:** That the application be granted subject to the following conditions:  
Three Years - Full Planning application

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

### Reason

This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990 (as amended).

### Submitted Plans and Details

2. Unless otherwise approved in writing by the Waste Planning Authority, no development shall be carried out other than in strict accordance with the following approved plans and drawings:

- Site Location Plan Drawing No L236;
- Planning Application Development Site Boundary Drawing No L238;
- Site Construction Access Drawing No L239;
- Site Layout Plan Drawing No L230 Revision P13;
- Proposed Plan – Whole Site Drawing No 2 000 Status Code S2;
- Site Entrance General Arrangement Drawing No 70029189-WSP-00-ZZ-DR-C-700-002 Rev P02;
- Proposed Plan – Transfer Barn Drawing No 2 001 Status Code S2;
- Proposed Plan – HRC Level Drawing No 2 002 Status Code S2;
- Site Sections Drawing No L232 Revision P6;
- Proposed Elevations Drawing No 3 000 Status Code S2;
- Proposed Sections Drawing No 3 050 Status Code S2;
- Tree Constraints Plan Drawing No L235;
- Highways Layout Vehicle Tracking Drawing No 70029189-WSP-00-ZZ-DR-C-700-001;
- Drainage Strategy Drawing No 70029189-WSP-00-ZZ-DR-C-500-001;

and details hereby approved and the schemes approved under the requirements of the following conditions.

### Reason

For the avoidance of doubt and in the interest of proper planning and to ensure compliance with the planning permission in accordance with Policies 5, 12, 13 and 14 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan.

### **Pre-commencement conditions**

#### Archaeology

3. Prior to commencement of the development a programme of archaeological work shall be completed in accordance with the submitted and approved scheme: 'Blandford Waste Management Centre, Blandford Forum, Dorset: Written scheme of investigation for an archaeological excavation. Document No: ACW1252/1/0 (July 2020).'

### Reason

To ensure the proper recording and preservation of features of archaeological merit and interest in accordance with Policy 19 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan.

#### Construction Environmental Management Plan

4. Prior to commencement of the development a Construction Environment Management Plan (CEMP) to address the environmental impacts of the construction phase must be submitted to and approved in writing by the Waste Planning Authority.

The plan shall include:

- (a) Identification of ecologically sensitive sections of the development where operations will have to be limited to certain periods of the year, for example, avoiding disturbance of nesting birds.
- (b) Phasing and programming for the construction phase of the development.
- (c) Working hours.
- (d) A protected species monitoring schedule (covering the period prior to and during construction), details of DEFRA licences to be obtained and any measures for capture, relocation or any other contingency measure to be taken in relation to protected species within the development site, nominated expert(s) to carry out monitoring, capture and relocation, a timetable for the preparation of suitable receptor sites.
- (e) Pollution control, monitoring and contingency procedures including measures to address water, noise, vibration and air pollution risks and ground contamination.
- (f) Identification of visually sensitive areas where advance planting is required and details of planting including species, planting plans, ground preparation and five years aftercare.
- (g) Measures to protect trees to be retained in accordance with BS 5837.
- (h) Measures to protect and maintain existing water courses and water features during construction.
- (i) Notwithstanding the provisions of Part 4 Schedule 2 of the Town and Country General Permitted Development Order 2015, proposals for the location and extent of any contractors' compounds and haul roads, including materials stores.
- (j) Measures to reduce greenhouse gas emissions during construction and minimise excavation waste



(j) Persons responsible for any of the above measures.

The CEMP shall include safeguarding measures to deal with the following pollution risks:

- i. the use of plant and machinery
- ii. wheel washing and vehicle wash-down and disposal of resultant dirty water
- iii. oils/chemicals and materials
- iv. the use and routing of heavy plant and vehicles
- v. the location and form of work and storage areas and compounds
- vi. the control and removal of spoil and wastes.

The development shall be implemented in accordance with the approved Construction Environmental Management Plan.

#### Reason

To prevent pollution of the water environment and to protect ecology and local amenity in accordance with Policies 13, 15, 16 and 18 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan.

#### Construction traffic management plan

5. Prior to commencement of the development a Construction Traffic Management Plan (CTMP) must be submitted to and approved in writing by the Waste Planning Authority. The CTMP shall include:

- a) construction vehicle details (number, size, type and frequency of movement)
- b) a programme of construction works and anticipated deliveries
- c) timings of deliveries so as to avoid, where possible, peak traffic periods
- d) a framework for managing abnormal loads
- e) contractors' arrangements (compound, storage, parking, turning, surfacing and drainage)
- f) wheel cleaning facilities
- g) vehicle cleaning facilities
- h) Inspection of the highways serving the site (by the developer (or his contractor) and Dorset Highways) prior to work commencing and at regular, agreed intervals during the construction phase
- i) a scheme of appropriate signing of vehicle route to the site
- j) a route plan for all contractors and suppliers to be advised on
- k) temporary traffic management measures where necessary

The development must be carried out strictly in accordance with the approved CTMP.

#### Reason

To minimise the likely impact of construction traffic on the surrounding highway network and prevent the possible deposit of loose material on the adjoining highway.

#### Construction – Stakeholder Communication

6. A stakeholder communications plan in relation to planned construction works, including the form, extent and timing of any communications, shall be prepared and agreed in writing by the WPA and thereafter implemented in accordance with the agreed plan.

#### Reason

In the interest of amenity, in accordance with Policy 13 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan.

### Dust Management Plan

7. Prior to commencement of the development a Dust Management Plan shall be submitted to and approved by the Waste Planning Authority. The plan shall subsequently be implemented in accordance with the approved details.

### Reason

In the interest of amenity and to protect residents from nuisance and in the interest of protecting biodiversity, in accordance with Policies 13 and 18 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan.

### Soil Handling

8. Prior to commencement of development a soil management plan shall be produced in accordance with the "Construction Code of Practice for the Sustainable Use of Soils on Construction sites" (Defra, 2009) and "BS3882:2007 Specification for topsoil and requirements for use" and submitted to and approved in writing by the Waste Planning Authority.

The soil management plan shall include:-

- (i) position of topsoil and subsoil stockpiles
- (ii) details for the working, retention, storage, cultivation and amelioration of existing site topsoil and subsoil to suit all proposed landscape planting works
- (iii) a programme for the stripping of soils.

The approved soil management plan shall be complied with for the duration of the development.

### Reason

To ensure appropriate protection of soils in accordance with Policy 16 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan.

### Landscaping

9. Prior to commencement of development full details of both hard and soft landscape proposals shall be submitted to, and approved in writing by, the Waste Planning Authority. These details shall include, as appropriate:

- (a) Proposed finished levels or contours.
- (b) Surfacing of vehicle and pedestrian access and circulation areas
- (c) Hard surfacing materials.
- (d) Any proposed functional services above and below ground, e.g. drainage, power, communication cables, pipelines, etc

Soft landscaping details shall include:-

- (i) Planting plans (to include varied tree species selection and naturalistic spacing to the individual tree planting along the access road)
- (ii) Written specifications (including cultivation and other operations associated with grass establishment).
- (iii) Schedules of plants, noting species, planting sizes and proposed numbers/densities, where appropriate
- (iv) Implementation timetables.

And the hard and soft landscaping shall be carried out in accordance with the approved details within 12 months of the commencement of development.

Any trees that are removed die or become, in the opinion of the local authority, seriously damaged or defective within five years of planting shall be replaced with specimens of a similar size and species as originally required

Reason

In the interests of the character of the area of this part of the AONB and in accordance with Policy

Boundary Treatment

10. Prior to the commencement of the development, details of all proposed means of enclosure, boundary walls and fences to the site, shall be submitted to, and approved in writing by, the Waste Planning Authority. The development shall thereafter be implemented in full accordance with the approved details.

Reason

In the interests of the amenity of the area.

Surface Water Management

11. Prior to commencement of development a detailed surface water management scheme for the site, based upon the hydrological and hydrogeological context of the development, and including clarification of how surface water is to be managed during construction, shall be submitted to, and approved in writing by the Waste Planning Authority. The surface water scheme shall be fully implemented in accordance with the submitted details before the development is brought into use.

Reason

To prevent the increased risk of flooding, to improve and protect water quality, and to improve habitat and amenity.

Drainage

12. Prior to commencement of development details of maintenance & management of both the surface water sustainable drainage scheme and any receiving system shall be submitted to and approved in writing by the Waste Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. These shall include a plan for the lifetime of the development, the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

Reason

To ensure future maintenance of the surface water drainage system, and to prevent the increased risk of flooding.

**Other conditions**

Materials

13. Prior to building works commencing samples/details of external materials shall be submitted to, and approved in writing by, the Waste Planning Authority and the works shall be carried out using the approved materials.

Reason

To ensure that the external appearance of the completed development is satisfactory and sympathetic to its locality in accordance with Policy 14 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan.

Kerbs, Signage and Road Marking

14. Prior to the development being brought into use, a scheme detailing the layout and design of kerbs, signs and road markings shall be submitted, and approved in writing by the Waste Planning Authority. The approved scheme shall be implemented and maintained for the duration of the development.

Reason

To minimise the impact of the site within the AONB and in the interests of the safe movements of vehicles within the site in accordance with Policies 12 and 14 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan.

Internal estate road layout and construction

15. Before the development is occupied or utilised the access, geometric highway layout, turning and parking areas shown on Drawing Number **L230 Rev P13** must be constructed. Thereafter, these must be maintained, kept free from obstruction and available for the purposes specified.

Reason

To ensure the proper and appropriate development of the site and in accordance with Policy 12 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan.

Highway works in advance of operation

16. Prior to the development being brought into operation the proposed left-in left-out junction onto the A350 shall be constructed in accordance with the details set out in Drawing No DR-C-700-002 contained within Appendix D of the Transport Assessment (or similar scheme to be agreed in writing with the Waste Planning Authority); and the existing highway filter drain on the north side of the A350 shall be reconstructed to restore it to at least its original capacity in accordance with details set out in Blandford Forum Waste Management Centre Flood Risk Assessment & Drainage Strategy (February 2021) and Drainage Strategy Drawing No 70029189-WSP-00-ZZ-DR-C-500-001 Rev P02.

Reason

These specified works are seen as a pre-requisite for allowing the development to be brought into operation, providing the necessary highway infrastructure improvements to mitigate the likely impact of the proposal and to ensure the correct functioning of the drainage system, to prevent the increased risk of flooding and to improve and protect water quality.

Visibility splays as submitted

17. Prior to the development being brought into operation the visibility splay areas as shown on the submitted plans must be cleared/excavated to a level not exceeding 0.6 metres above the relative level of the adjacent carriageway. The splay areas must thereafter be maintained and kept free from all obstructions.

Reason

To ensure that a vehicle can see or be seen when exiting the access.

Landscape and Ecological Management Plan

18. The development hereby approved shall be subject to a minimum landscape and ecological management period of 25 years and shall be in accordance with the details set out in the Landscape and Ecological Management Plan dated March 2021, Updated January 2022 and the accompanying plans: LEMP Operational Phase Management Plan Drawing No L260 and LEMP Landscape Soft Works Plan Drawing No L261.

#### Reason

To provide effective mitigation against impacts on the landscape character and visual amenity of the AONB and ecology and to provide habitat and landscape character enhancement in accordance with Policies 3, 14 and 18 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan.

#### Landscape and Ecological Management Plan Reviews

19. The approved Landscape and Ecological Management Plan shall be reviewed on a 5 yearly basis during the 25 year period. Each reviewed Landscape and Ecological Management Plan shall be submitted to and approved by the Waste Planning Authority and once approved the development shall be carried out in accordance with the approved reviewed Landscape and Ecological Management Plan.

#### Reason

To provide effective mitigation against impacts on the landscape character and visual amenity of the AONB and ecology and to provide habitat and landscape character enhancement in accordance with Policies 3, 14 and 18 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan.

#### Tree Protection

20. The development hereby approved shall proceed only in accordance with the details set out in the Arboricultural Method Statement dated 4 May 2020 setting out how the existing trees are to be protected and managed before, during and after development. All existing trees, shrubs and other natural features not scheduled for removal shall be fully safeguarded during the course of the site works and building operations. No unauthorised access or placement of goods, fuels or chemicals, soil or other materials shall take place inside the fenced area.

#### Reason

To ensure the continuity of amenity afforded by existing trees and in accordance with Policies 13 and 14 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan and the relevant sections of British Standards Institute (2012) Trees in Relation to Design, Demolition and Construction – Recommendations BS5837:2012.

#### Site Management Plan

21. Prior to the development being brought into use, a finalised Site Management Plan (SMP) shall be submitted to the Waste Planning Authority for approval. The SMP shall subsequently be implemented in accordance with the approved details and maintained for the duration of the development.

The SMP shall include:

- details of how excessive noise would be dealt with
- how noise levels would be maintained at their predicted level
- measures and procedures to control vermin; litter; dust and bio-aerosols
- measures and procedures to prevent mud and litter on the highway
- measures and procedures to minimise greenhouse gas emissions from the operation of the facility

#### Reason

In the interest of amenity and to protect residents from nuisance, in accordance with Policies 13 and 15 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan and the National Planning Policy for Waste.

#### Odour management plan

22. Prior to the development being brought into use, an Odour Management Plan shall be submitted to the Waste Planning Authority for approval. The Odour Management Plan shall subsequently be implemented in accordance with the approved details and maintained for the duration of the development. The Odour Management Plan shall include:

- a specification for odour control based on best practice measures to date
- prescriptions for management of green waste, food waste and black bag waste
- contingency plan in the event of failure or damage to the transfer building's roller-shutter doors

#### Reason

In the interest of amenity and to protect residents and sensitive receptors from odour nuisance, in accordance with Policy 13 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan and the National Planning Policy for Waste.

#### Lighting

23. No lighting shall be installed until details of the lighting scheme, which shall be in accordance with the External Lighting Assessment Report (dated 16/10/2020), have been submitted to, and agreed in writing by, the Waste Planning Authority. The lighting scheme shall include timings of use of all lights, shielding and angle to reduce glare and light intrusion on land in the AONB. It shall also incorporate the following:

- Selected lights shall be IDSR compliant.
- The maximum Correlated Colour Temperature (CCT) for the scheme shall be 3000K
- All luminaires shall be fitted with UV light filtration
- No increase to the mean illuminance of the External Lighting Assessment Report
- Full shielding to prevent light emission above the horizontal

Motion sensors for external lighting to be set at 5 minutes 'on time' after activation, and for a maximum of 10 minutes only where justified for operational requirements. Thereafter the lighting shall be installed, operated and maintained in accordance with the agreed details.

#### Reason

To protect the character of the AONB and visual amenities in accordance with Policies 13 and 14 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan.

#### Biodiversity

24. The Biodiversity Plan (BP) dated 19 February 2021 shall be implemented in full in accordance with the specified timetable(s) in the BP.

#### Reason

To minimise impacts on biodiversity and ensure compliance with wildlife legislation, the National Planning Policy Framework (biodiversity paragraphs) and the Natural England Protected Species Standing Advice.

#### Construction

25. No construction works shall take place outside the hours of 07:00 to 18:30 Monday to Friday and 08:00 to 13:00 on Saturdays. No construction works shall take place on Sundays or bank holidays.

Reason

In the interest of amenity and to protect residents from nuisance, in accordance with Policy 13 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan.

Contingent Site Construction Access

26. The contingent site construction access on Higher Shaftesbury Road, as shown on Drawing No L239, shall only be used during the construction period if needed as an alternative to the primary site construction access. As soon as the primary site construction access becomes available for use, the contingent site construction access shall not be used by construction traffic thereafter.

Reason

In the interest of amenity, in accordance with Policy 13 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan.

Soil importation

27. No soil shall be imported to the site unless it has been tested for contamination and assessed for its suitability for the proposed development. A suitable methodology for testing this material shall be submitted to and approved by the Waste Planning Authority prior to the soils being imported onto site. The methodology shall include the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by risk assessment) and source material information. The analysis shall then be carried out and a validation certificate or similar evidence should be submitted to and approved in writing by the Waste Planning Authority.

Reason

To prevent pollution of the environment in accordance with Policy 16 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan.

Contamination

28. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Waste Planning Authority. An investigation, risk assessment and remediation scheme, if necessary, shall be submitted to and approved by the Waste Planning Authority and any required remediation carried out in accordance with the approved scheme. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by the Waste Planning Authority.

Reason

To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are minimised, having regard to the National Planning Policy Framework 2021.

Hours and Days of Operation

29. Except in cases of emergency to maintain safety (which shall be notified to the Waste Planning Authority as soon as practicable), no operations shall take place outside of the hours of 07:00 to 19:00 Monday to Sunday.

The site shall only be open to the public for the receipt of waste between the following periods and hours, excluding Christmas Day, Boxing Day and New Year's Day:

09:00 to 16:00 1 October to 31 March

09:00 to 18:00 1 April to 30 September.

#### Reason

In the interests of local amenity and the character of this part of the Area of Outstanding Natural Beauty, in accordance with Policies 13 and 14 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan.

#### Noise

30. Wherever practicable, vehicles operating at the operational site shall be fitted with noise reducing reversing beepers for the duration of the development.

#### Reason

To ensure the minimum disturbance from operations, to minimise the adverse impact of noise generated by the operations on amenity and to maintain the tranquillity of the AONB in accordance with Policies 13 and 14 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan and with the requirements of the National Planning Policy for Waste.

#### Waste transfer building

31. The unloading, storage, sorting and reloading of waste materials (both incoming and outgoing) shall only take place inside the waste transfer building hereby approved (except for waste arisings contained within the external covered skip area).

#### Reason

In order to protect the amenity of the area and the character of the landscape, in accordance with Policies 13 and 14 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan.

#### Transfer of Waste

32. Other than in exceptional circumstances, putrescible waste (excluding green garden waste) shall be removed from the waste transfer building on a daily basis, excluding Sundays.

#### Reason

In the interest of amenity and to protect residents and sensitive receptors from odour nuisance, in accordance with Policy 13 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan and the National Planning Policy for Waste.

#### Waste transfer building doors

33. All vehicular access doors to the transfer barn building shall only be opened when required to allow vehicles and mobile equipment into and out of the building or for maintenance or in an emergency. The vehicular access doors shall be fitted with a fast-acting closing system that ensures they are closed rapidly following the safe passage of a vehicle into and out of the building. Doors which allow the movement of personnel into and out of the transfer barn building shall be closed when not in use.

#### Reason

In the interest of amenity and to protect residents and sensitive receptors from odour nuisance, in accordance with Policy 13 of the Bournemouth, Christchurch, Poole and Dorset Waste Plan and the National Planning Policy for Waste.



## **Informative Notes**

### Environmental Permit

This development will require an environmental permit under the Environmental Permitting (England and Wales) Regulations 2016, Regulation 12.

In circumstances where an activity/operation meets certain criteria, an exemption from permitting may apply, more information on exempt activities can be found here: <https://www.gov.uk/guidance/register-your-waste-exemptions-environmental-permits>  
Waste Permit application is a separate process and Planning Permission does not automatically indicate that a waste permit will be granted.

**The applicant is advised to contact [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk) to discuss the issues arising from the permit application process.**

### Duty of Care

The Environmental Protection (Duty of Care) Regulations 1991 for dealing with waste materials are applicable to any off-site movements of wastes.

The code of practice applies to you if you produce, carry, keep, dispose of, treat, import or have control of waste in England or Wales.

The law requires anyone dealing with waste to keep it safe and make sure it's dealt with responsibly and only given to businesses authorised to take it. The code of practice can be found here:

[https://www.gov.uk/uploads/system/uploads/attachment\\_data/file/waste-duty-care-code-practice-2016.pdf](https://www.gov.uk/uploads/system/uploads/attachment_data/file/waste-duty-care-code-practice-2016.pdf)

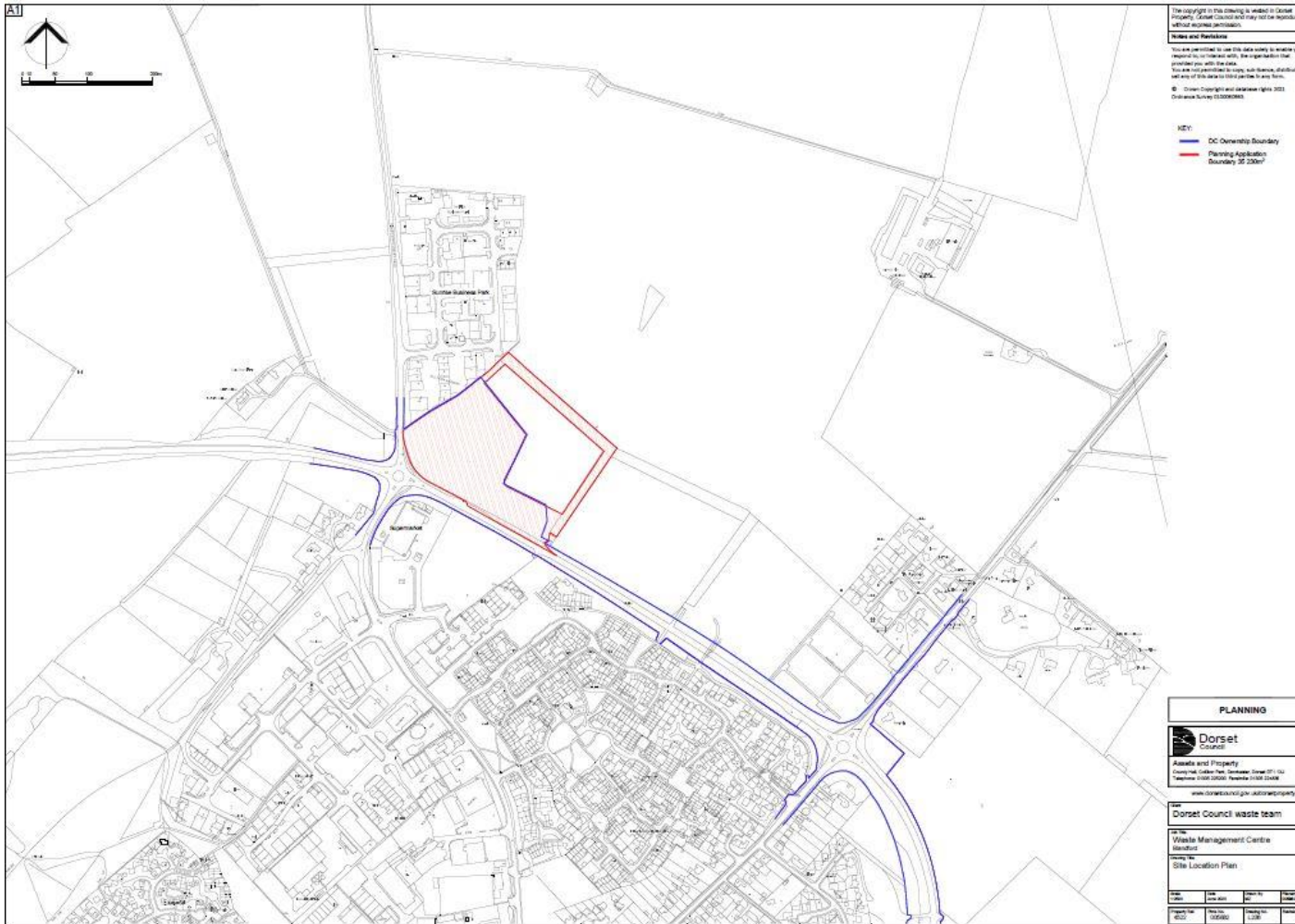
If you need to register as a carrier of waste, please follow the instructions here: <https://www.gov.uk/register-as-a-waste-carrier-broker-or-dealer-wales>

If you require any local advice or guidance please contact your local Environment Agency office: [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk)

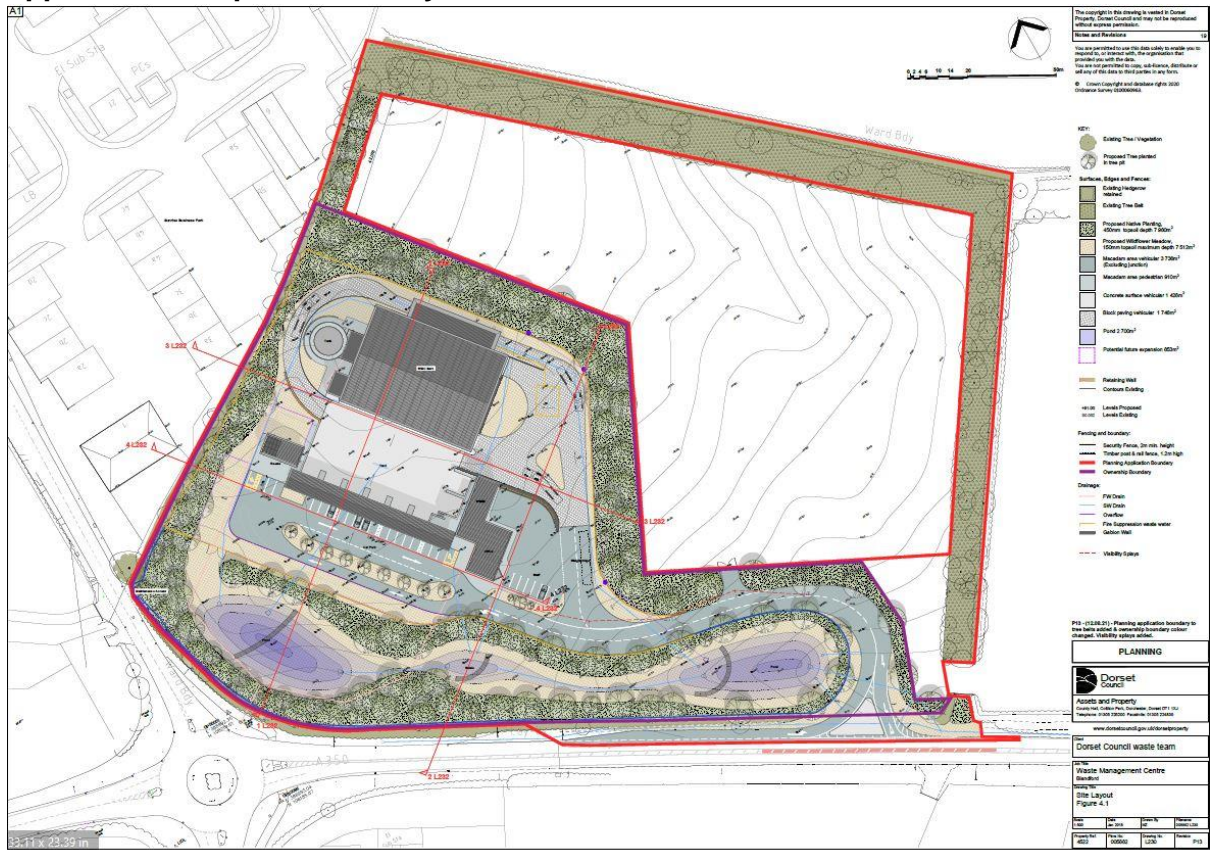
### **INFORMATIVE NOTE: Grampian**

The highway improvement(s) referred to in Condition 16 above must be carried out to the specification and satisfaction of the Highway Authority in consultation with the Planning Authority and it will be necessary to enter into an agreement, under Section 278 of the Highways Act 1980, with the Highway Authority, before any works commence on the site.

# Appendix 1: Site Location Plan



# Appendix 2: Proposed Site Layout



This page is intentionally left blank

## Strategic and Technical Planning Committee

11 October 2022

### Application to record a town or village green at Stony Down Plantation, Corfe Mullen

**Portfolio Holder:** Cllr D Walsh, Planning

**Local Councillor(s):** Cllr Mike Barron, Cllr Paul Harrison

**Executive Director:** J Sellgren, Executive Director of Place

**Report Author:** Anne Brown (contact Vanessa Penny, Definitive Map Team Manager).

**Title:** Definitive Map Technical Officer

**Tel:** 01305 224719

**Email:** [vanessa.penny@dorsetcouncil.gov.uk](mailto:vanessa.penny@dorsetcouncil.gov.uk)

**Report Status:** Public

**Brief summary:**

This report considers an application to amend the Register of Town and Village Greens by the addition of an area of land known as Stony Down Plantation, as shown on Drawing 17/01 attached as Appendix 1.

**Recommendations:**

That:

- (a) The application VG1/2016 to register land at Stony Down Plantation as Town or Village Green at Corfe Mullen is rejected;
- (b) The Register of Town and Village Greens should not be updated.

**Reasons for Recommendations:**

- (a) The proposed registration does not meet the legal criteria set out in the Commons Act 2006.
- (b) The evidence presented to the Council does not demonstrate that application VGAP1/2016 should be accepted and the relevant land registered as a Town and Village Green.

## 1 Background

- 1.1 Dorset Council (“the Council”) is the Commons Registration Authority for the purpose of exercising functions under the Commons Act 2006. An application was made in October 2016 by Mr Heath for the registration of land at Stony Down Plantation, Corfe Mullen as a town or village green.
- 1.2 Prior to this, Mr Heath made an application in November 2015 for a Definitive Map Modification Order to add sixteen bridleways across Stony Down Plantation. The Modification Order application is under separate consideration but is relevant to the Village Green application as it affects the same area of land and both applications were supported by evidence of public use.

## 2 Description of the land

- 2.1 The area of land, which is the subject of the application (“the Land”), is shown in red on Drawing 17/01 attached as Appendix 1. It consists of approximately 53.2 hectares of land (131.4 acres), which forms a wooded area known as Stony Down Plantation in the parish of Corfe Mullen. The land is bounded to the south east by Stoney Down House and Rushall Park Riding Stables to the north west of Rushall Lane, to the east by open fields, Florence Cottage and Mountain Cottage, to the north west by open fields and solar farm and to the west by The Pheasantry and Kindersley.
- 2.2 At the time of the claim the Land reportedly consisted of one area, crossed from south west to north east by Bridleway 22, Corfe Mullen. However, since the application was made fences have been erected dividing the area up.
- 2.3 The majority of the area is a mature conifer plantation which, with limited management, has overgrown with rhododendrons. There are surfaced tracks through the plantation and cleared tracts beneath power lines. Smaller sections of the area are native or mixed woodland.
- 2.4 Since the application, in addition to fences being erected and locked gates to control access, new tracks have been laid, together with camping pitches.

## 3 Law

### Commons Act 2006

- 3.1 Under Section 15(1) of the Commons Act 2006 any person may apply to the Commons Registration Authority to register land as a town or village green in a case where subsection (2), (3) or (4) applies (according to whether the use continued at the date of the application or not).
- 3.2 This application was made under Section 15(3) which requires that:
  - (a) a significant number of the inhabitants of any locality, or of any neighbourhood in a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and

- (b) they ceased to do so before the time of the application but after the commencement of this section; and
- (c) the application is made within the relevant period (one year beginning with the cessation mention in (b)).

The Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007

3.3 These Regulations set out the procedure to be followed by the Council on receipt of an application:

- (a) The Regulations require that the application is publicised, giving at least 6 weeks for any objections to be made. Following the end of the objection period, the Council is required to proceed to the further consideration of the application as soon as possible and the consideration of statements (if any) objecting to that application.
- (b) The Regulations also require that the Council:
  - (i) Consider every written statement in objection to an application which it receives before the date on which it proceeds to the further consideration of the application; and
  - (ii) May consider any such statement which it receives on or after that date before the authority finally disposes of the application.
- (c) The Council must not reject the application without giving the applicant a reasonable opportunity of dealing with –
  - (i) The matters contained in any statement of which copies are sent to him...; and
  - (ii) Any other matter in relation to the application which appears to the authority to afford possible grounds for rejecting the application.

Human Rights Act 1998

3.4 The Human Rights Act 1998 incorporates into UK law certain provisions of the European Convention on Human Rights. Under Section 6(1) of the Act, it is unlawful for a public authority to act in a way which is incompatible with a convention right. A person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by Section 6(1) and that he is (or would be) a victim of the unlawful act, may bring proceedings against the authority under the Act in the appropriate court or tribunal, or may rely on the convention right or rights concerned in any legal proceedings.

- (a) Article 8 of the European Convention, the Right to Respect for Private and Family Life provides that:

- (i) Everyone has the right to respect for his private and family life, his home and his correspondence.
  - (ii) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.
- (b) Article 1 of the First Protocol provides that:

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

#### **4 General Issues**

- 4.1 The Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007 set out the procedures to be followed in respect of such applications. In accordance with those Regulations, advertisements on site and in the local press invited objections to the application within the period specified in the Regulations: in this case the objection period expired on 21 April 2017. Objections were received on behalf of Paradise Farms Ltd (the landowner) and the Applicant has made comments on those objections.
- 4.2 In its capacity as Registration Authority, the Council is required to adjudicate on the application and to register the application land if there are sound reasons for doing so or, if not, to reject the application. It is for the applicant to prove his or her case and there is no requirement for the Registration Authority to instigate its own research into the application. Nonetheless, there may be disputes of fact and/or issues of law to be resolved or considered before a decision can properly be made. Further, the Council has discretion to deal with the application on the basis of the evidence available to it and not necessarily solely on the basis applied for.
- 4.3 Unlike decisions made on applications for rights of way (which are in several ways governed by similar principles of law), decisions made by this Committee on town or village green applications are not subject to review by the Secretary of State through a prescribed statutory and public process: the decision to accept or reject an application rests with the Council alone and can only be challenged through the Courts by way of judicial review. It is therefore particularly important that the Registration Authority's scrutiny of the application and any objections is thorough and that this Committee is well informed and advised before the application is finally determined.



## 5 The application

- 5.1 The application was received on 10 October 2016. It states that the Land should be registered as a town or village green because “the owners have allowed the public to wander anywhere within the plantation over many years”. “The Plantation has been in regular use for over 50 years by the local riding stables... The same access is also enjoyed by local scouts, cubs and badger groups”. “The woods are used by well over 100 local residents from the Corfe Mullen and Lytchett parish areas to exercise themselves and their animals...”
- 5.2 The application is “duly made” for the purposes of the Commons Act 2006.
- 5.3 The application was accompanied by a map showing Stony Down Plantation and 6 forms of evidence detailing use of the Land by 6 witnesses within the parish. Subsequently a further 61 witnesses who lived (at some time) within Corfe Mullen Parish submitted evidence. Drawing 17/02 illustrates the addresses and former addresses (where known) of users who completed evidence forms and statements in relation to the Land (attached as Appendix 2).
- 5.4 In addition, following the application, a further 66 witnesses submitted evidence of use none of whom lived in the parish at the time of completing the forms. The majority of these (41) stated that they had not lived in the locality of the Land prior to October 2015. 21 witnesses said they had lived in the locality prior to 2015, but did not provide any further information, so it is not known if their periods of use coincided with them living nearby. Also, the Land is on the edge of Corfe Mullen Parish and so someone stating they lived in the locality of the Land may have been living in the adjacent parish of Sturminster Marshall.
- 5.5 A further 2 evidence forms were returned that either contained no name or were not signed. These were rejected.
- 5.6 The user evidence is summarised as a table showing the activities in which people participated in Appendix 3 and charts showing level of use form Appendix 4.
- 5.7 Many witnesses indicated that they used the plantation as a customer of a local riding stables, and some witnesses were owners / employees of the stables. The owner of one stable described his use of Stony Down Plantation as ‘Use by right’, he was asked if he had written permission and he initially said he thought he had written permission from the former owner, but when asked was unable to provide this. Use connected with the riding stables has been included in the analysis.
- 5.8 Some witnesses said they only followed main paths through the plantation. This use could be interpreted as use analogous with a right of way, so was discounted.

- 5.9 Separate charts are shown for witnesses who lived within Corfe Mullen Parish at some time, and those who provided no evidence that they had ever lived in Corfe Mullen.
- 5.10 Considering those witnesses who had at some point lived in the parish of Corfe Mullen, in the 20 years prior to the date of bringing into question, there were 40 users per year in 1995, rising to 61 users per year in 2015.
- 5.11 If we exclude from those users anyone using the route in a manner analogous with a right of way, or use when they declared they were not resident, there were 26 users per year in 1995 rising to 41 users per year in 2015.
- 5.12 Of those witnesses who provided evidence that they lived “in the locality” of the Land at some time prior to October 2015, but did not specify addresses or dates, there were 8 users in 1995 rising to 12 users in 2015.
- 5.13 Therefore, the total number of qualifying users is 34 per year in 1995 rising to 53 per year in 2015.
- 5.14 Typical activities described by witnesses are horse riding, walking, dog walking, jogging / running, bicycle riding, wildlife watching, picnicking, children playing / games, and drawing / photography, which are lawful sports, pastimes and activities capable of supporting registration of land as a town or village green. Some people also described geocaching, camping / den building and picking blackberries / chestnuts and other foraging which may not constitute lawful pastimes.

## **6 Objections to the application**

- 6.1 Objections were received from Steele Raymond LLP on behalf of Paradise Farms Ltd (the owners of the land) on 27 March 2017 and 21 April 2017.
- 6.2 They raised the following points:
- (a) The landowner was prejudiced because the user evidence was submitted to the Objector in a piecemeal fashion.
  - (b) The application fails the Statutory Test because the Applicant claimed qualifying use up to April 2016 but a Landowner Statement had been submitted under Section 15A(1) Commons Act 2006 in October 2015.
  - (c) The number of users was not sufficient and did not represent a significant number of the residents of Corfe Mullen. Evidence was not of sufficient quality to determine if it was use ‘as of right’. Many users should be discounted because they lived outside the area of Corfe Mullen Parish, or were users through business / of commercial nature relating to the nearby riding stables.
  - (d) The use of worn paths or tracks is public right of way type use, not town and village green type use.

- (e) The nature and extent of claimed use was not credible because, prior to the current ownership, the area was too overgrown to be accessible, except along logging tracks.
- (f) Since April 2016 there has been prohibitory signage displayed on the application land, and prior to this the previous owner also displayed signage. Since 2016 the application land has been fenced from the bridleway.
- (g) Owing to the disputed nature of the application, it should be decided by an Inspector after hearing of evidence at a public inquiry. Further, that the matter should be considered urgently to avoid damaging the commercial potential of the land.

6.3 A further objection was received from Evans & Traves LLP on behalf of the landowners on 11 January 2022. They raised the following points:

- (a) The 46 witness statements that they have seen [at that time] represents 1 in 222 as a proportion of the population of Corfe Mullen which would not be significant to demonstrate that the land was in general use by the local community.
- (b) It appears that 13 of the statements are from outside the locality.
- (c) A number of users can be discounted as they have not been users of the land for a period of at least 20 years.
- (d) They request that the application be rejected as the statutory tests have not been met.

6.4 On 13 July 2022, Evans & Traves submitted another objection letter on behalf of Paradise Farms Ltd., and clarified a number of points:

- (a) Witnesses who confirmed that they always stuck to 'well-worn paths' are demonstrating a type of use that is more akin to PROW type use than TVG type use. This is a recurring theme. They cite the case of *Oxfordshire County Council v Oxford City Council & Another* [2004], in which it was stated that "If the position is ambiguous, the inference should be drawn of exercise of the less onerous right (the public right of way) rather than the more onerous (the right to use as a green)." However, they do not accept that either type of use meets the statutory tests.
- (b) There are only two entrance points to the Land and both had prohibitory signs erected prior to 2015 when the current landowner purchased the plantation. Signs at each end of the bridleway state that the woodland is private property and the only access to the area is on the public bridleway. Use in the face of prohibitory signage is not qualifying use. The landowner maintains that prohibitory signage was in place also prior to 2014.

- (c) With regard to the condition of the Land, the overgrown state of the area has been documented. The entirety of the Land was not therefore accessible and could not have been used in its entirety as a green.
- (d) Over 80% of the witness statements do not meet the statutory tests.

## **7 Responses to objections – the applicant**

7.1 The Applicant's response to the objections raised by Paradise Farms Ltd. in 2017 is summarised below:

- (a) Evidence was submitted in a piecemeal fashion because of difficulties caused by the incorrect use of addresses and postcodes by the Objector on planning applications. However, evidence was submitted within the required time.
- (b) The applicant points out that the application was received by Dorset Council within one year of the Landowner Deposit and that further evidence was submitted by the deadline set by the Council. In addition, the Applicant alleged that the Landowner Deposit contained inaccuracies, and that the landowner did not immediately "exercise his right to exclude the public" by fencing the area.
- (c) The applicant disputes the dates when the application land was fenced and claimed that, prior to fencing the objector directed members of the public onto paths other than the bridleway.
- (d) The applicant said that the previous owner had submitted a Landowner Deposit but "had never exercised this right" and residents had made extensive use of the land throughout his ownership, "but this was never permissive".
- (e) The Applicant disagrees that the level of use by Corfe Mullen residents was insignificant and points out that the evidence provided by non-residents was clearly labelled as such. He disputes the discounting of stables customers on the basis of business use alleging that some of these users rented horses, or kept their own horses at the stables, or rode in connection with a charity for disabled riders.
- (f) The Applicant declares the alleged inaccessibility to be untrue, citing photographic evidence, various maps of paths (other than the bridleway) and a sales brochure, in addition to the witness statements. He also points out that village greens can constitute an area of woodland and undergrowth.
- (g) The applicant restated that no force or secrecy was ever used in accessing the site by members of the public. He also disputes that the evidence is suggestive of right of way type use.

- (h) The Applicant stated that there was a notice erected in 2014 in response to unauthorised vehicular access and vandalism stating that access to the site was using the bridleway. It did not say that access was restricted to the bridleway. The only sign at the northern entry was a wooden sign giving a telephone number.
- (i) The Applicant describes this reference to use of the Planning Inspector as a threat to the Council about the possible cost of a public inquiry and an attempt to pressurise the Council into releasing the commercial potential of the site.
- (j) Other points raised either restate points made in the application which have not been challenged by the objector, or have no bearing on determination of the application to record a town and village green.

7.2 Additional comments were received from the Applicant in response to the objections raised in January 2022:

- (a) The total number of witness statements is substantially more than that quoted by Evans & Traves.
- (b) Nowhere in the regulations is there a specified requirement of numbers of forms to population.

7.3 The Applicant also responded in August 2022 to the objections made in July 2022:

- (a) The witnesses did not always stick to PROW. There have been, for generations, numerous ways throughout Stony Down and the witnesses are merely stating that they used those.
- (b) Prohibitive signage did not exist before the landowner purchased the land in 2015. No sign existed at the southern end of Stony Down and no regular users were aware of any prohibition. The sign at the northern end of the site referred to by the objectors is on a separate piece of land adjacent to Stony Down. Another sign was erected in 2013/14 to prevent children constructing a bike circuit in part of the wood and lighting fires. The sign was torn down after a few days and was not replaced.
- (c) The numerous paths have become overgrown as they are no longer used.
- (d) Other comments relate to Planning issues on the site and are not relevant to the consideration of this application.

## 8 **Issues to be considered**

The objector has raised points which need to be addressed:

- 8.1 The piecemeal arrival of evidence at the Council, and the corresponding piecemeal delivery to the landowner is of no relevance. All evidence considered here was submitted within the deadline set and was shared with the landowner. The landowner has had an appropriate time in which to respond and has not therefore been prejudiced.
- 8.2 The applicant submitted the application under Section 15(3) of the Commons Act 2006; This states that: “*a significant number of such inhabitants indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years which ceased after commencement of Section 15, and the application is made within one year of this cessation*”. The applicant submitted the application and it was received on 10 October 2016 and stated that he considered the use as of right had ended in April 2016. In fact, any use as of right would have been brought to an end on 16 October 2015 when a Statement under Section 15A Commons Act 2006 was deposited on behalf of the landowner. Given that the application was received within one year of the Statement, it is considered to be a valid application which the Council must determine on its merits.
- 8.3 The main issue is whether the test in section 15(3) of the Commons Act set out in paragraph 3.2 has been satisfied: that the Land has been used by a significant number of inhabitants of the locality (or neighbourhood within the locality) as of right for sports and pastimes for at least 20 years. The constituent parts of the test are considered in more detail below.

#### Locality or neighbourhood within a locality

- 8.4 The locality or neighbourhood within a locality should be identified by reference to a recognised administrative area or an obvious geographical characteristic. For example, a particular parish.
- (a) The applicant has identified the locality in respect of which the application is made as “Corfe Mullen Parish, East Dorset District Council, hedged in red on the accompanied map”. The map does not identify a locality or neighbourhood but illustrates the boundary of Stony Down Plantation; the land being applied for.
- (b) Although a plan of the identified locality has not been provided it is adequately defined by the description.

#### Significant number of inhabitants

- 8.5 A significant number does not need to be a considerable or substantial number. The number of people using the Land has to be sufficient to signify that the Land is in general use by the local community; in this case by those within the identified locality.

- 8.6 The total number of qualifying users is 34 per year in 1995 rising to 53 per year in 2015. UK census data states that the population of Corfe Mullen in 2011 was 10,133. It is considered that qualifying evidence of use from 53 people is not sufficient to demonstrate that the Land is in general use by residents of the Parish. Case law suggests “one in two hundred would not be significant”, which is a similar proportion to the evidence of use under consideration here.

#### Use as of right

- 8.7 Use is as of right if it is without force, without secrecy and without permission. The use evidenced in support of the application indicates that the majority of the use was as of right. One of the witnesses claimed use was ‘by right’. Additionally, it is difficult to establish from the evidence presented whether others’ use was also ‘by right’.
- 8.8 Witnesses opposing the application claim that prohibitory signs erected on site by themselves since 2016, and by a previous landowner would have prevented use by right. Evidence from those supporting and opposing the application suggests that there was one sign displayed at the southern entrance prior to October 2015 which read “*This woodland is private property...the only access to this area is on the public bridleway*”. See Appendix 5. The exact date of erection is unknown but one of the witnesses giving evidence to support the application wrote, on 24 November 2015, that the notice had been “put up by representatives of the previous owner less than two years ago”. This would suggest that the notice could have been in place before 10 October 2015 which is 1 year before the application was made for Town and Village Green status.
- 8.9 It is considered that the notice would indicate to users of the area that the owner was aware of use and did not acquiesce to that use. As such the erection of the notice on site could represent a challenge to their use, despite the fact that only two users claimed to have seen the sign and neither thought it affected their use. As there is a conflict of evidence on this issue, it would need to be resolved by hearing evidence on behalf of the applicant and the landowner at a public inquiry.

#### Lawful sports and pastimes

- 8.10 The use evidenced in support of the application indicates that a range of the activities qualify as lawful sports and pastimes. The objector disputes that the claimed activities have taken place but, given that the qualifying period of use predates his ownership, he may not have been in a position to witness the use. The number of witnesses providing evidence of their own use, and evidence that they witnessed other people using the area is considerable. In addition, more than 3 years after the area was fenced it is still possible to see evidence of prior access on the ground with vegetation changes.

- 8.11 The landowner states that parts of the Plantation are very overgrown and not readily accessible. The entirety of the Land therefore could not have been used as a green. The whole of the area claimed does not need to be available at all times and so this is not necessarily fatal to the application.

For a period of 20 years

- 8.12 The test for a continuous period of use over 20 years appears to be satisfied on the basis of the evidence submitted, with the twenty years counting back from when the Landowner Statement under the Commons Act 2006 was deposited 16 October 2015.

Use continued at the date of application

- 8.13 Most users claimed use to the date when they completed the form (Dec 2015 / Jan 2016) but the applicant claimed that the new owners (2015) “*are making significant changes to the wood. Their future plans may restrict the use of this amenity.*”. Evidence has come to light which indicates that fencing began in April 2016, however, some of the forms signed in 2017 state that use was continuing at that time so use continued at the date of the application.

## 9 Discussion

- 9.1 There are three main options available to the Committee:

- To accept the application;
- To refuse the application;
- To defer a decision pending a public inquiry.

- 9.3 Conflicts in personal evidence should be tested at a public inquiry where witnesses may attend to give evidence and be available for cross-examination. The Committee is not in a position to hear evidence in this way. This will ensure that a decision is made in the knowledge that the evidence has been fully tested and both the applicant and the objector have had the opportunity of exploring the evidence in public.

- 9.4 If a public inquiry is held, the Inspector will hear all of the evidence from the applicant and objector and prepare a report setting out his or her conclusions on the evidence and whether the test for registration is satisfied. The Inspector’s report will recommend to the Committee how the application should be determined. The ultimate decision remains with the Committee and so a further report would be made to the Committee following receipt of the Inspector’s recommendation.



9.5 As discussed in section 8 above, the evidence does not meet the legal tests required for the successful registration of a town or village green. It is considered that there is insufficient qualifying evidence of use to demonstrate that a significant number of inhabitants have used the Land.

9.6 The landowner states that prohibitory signage has been displayed at both bridleway access points to the Land. However, they have been unable to confirm who erected the signs or when they were first displayed. Very few of the witnesses recall seeing the any such signs.

9.7 Whilst there is a conflict of evidence regarding the signage, the evidence of use is not sufficient to meet the statutory test. As a result, officers consider that the Committee is in a position to reach a decision on the application.

## 10 **Costs**

10.1 To appoint a suitably qualified independent inspector to hold a non-statutory public inquiry would cost in the region of £10,000. In addition, there would be a cost to the Council of booking a venue, publishing notices and other administrative arrangements.

## 11 **Financial Implications**

Any financial implications arising from this application are not material considerations and should not be taken into account in determining the matter.

## 12 **Climate implications**

Any climate implications arising from this application are not material considerations and should not be taken into account in determining the matter.

## 13 **Well-being and Health Implications**

Any well-being and health implications arising from this application are not material considerations and should not be taken into account in determining the matter.

## 14 **Other Implications**

None

## 15 **Risk Assessment**

Having considered the risks associated with this decision, the level of risk has been identified as:  
Current Risk: LOW

Residual Risk LOW

## 16 **Equalities Impact Assessment**

An Equalities Impact Assessment is not a material consideration in considering this application.

## 17 **Conclusion**

- 17.1 The evidence indicates that the evidence of use of the Land does not represent a significant number of inhabitants. As such, the legal test for the registration of a new town or village green are not met and it is therefore recommended that the application is refused.

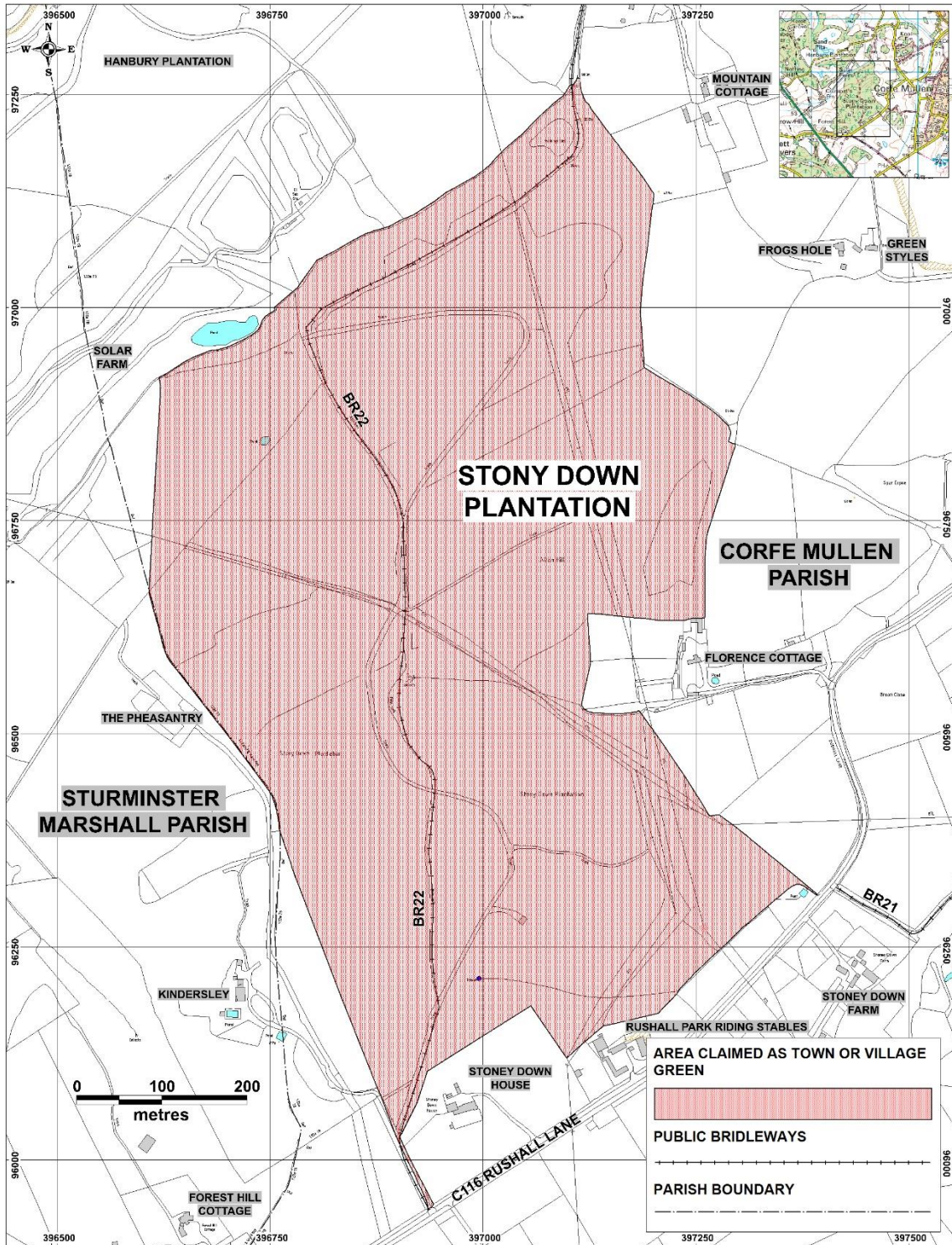
### **Appendices:**

- 1 Drawing 17/01 – Area of land which is the subject of the application
- 2 Drawing 17/02 – Showing addresses of users
- 3 User evidence table showing activities in which users participated.
- 4 Charts to show periods and level of use
- 5 Prohibitory sign

### **Background Papers:**

The file of the Executive Director, Place (ref. VGAP 1/2016).

Drawing 17/01 - Area of land which is the subject of the application



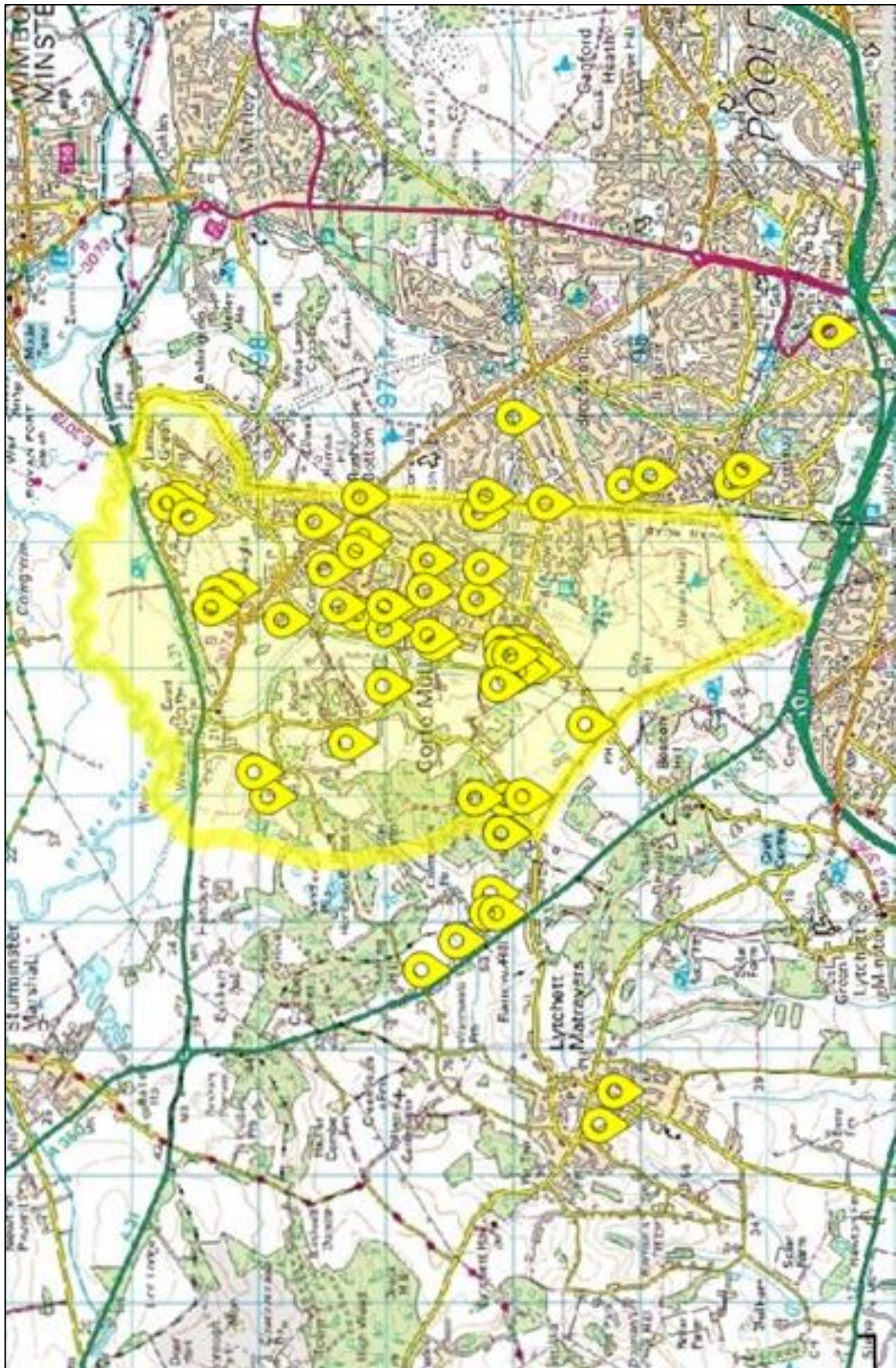
**SECTION 15, COMMONS ACT 2006**  
 APPLICATION FOR THE REGISTRATION OF LAND AS A TOWN OR VILLAGE GREEN  
 AT STONY DOWN PLANTATION, CORFE MULLEN  
 THIS MAP IS NOT DEFINITIVE AND HAS NO LEGAL STATUS

Ref: 17/01  
 Date: 31/01/2017  
 Scale 1:4000  
 Drawn By: EB  
 Cent X: 396998  
 Cent Y: 96626

**Dorset Council**

© Crown Copyright and database right. 2018 Ordnance Survey 100009960.  
 This map is provided for your personal use only. It is not to be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission of Ordnance Survey. All rights reserved. Ordnance Survey Licence No: 100009960.

Drawing 17/02 – Showing addresses of users relative to Corfe Mullen Parish

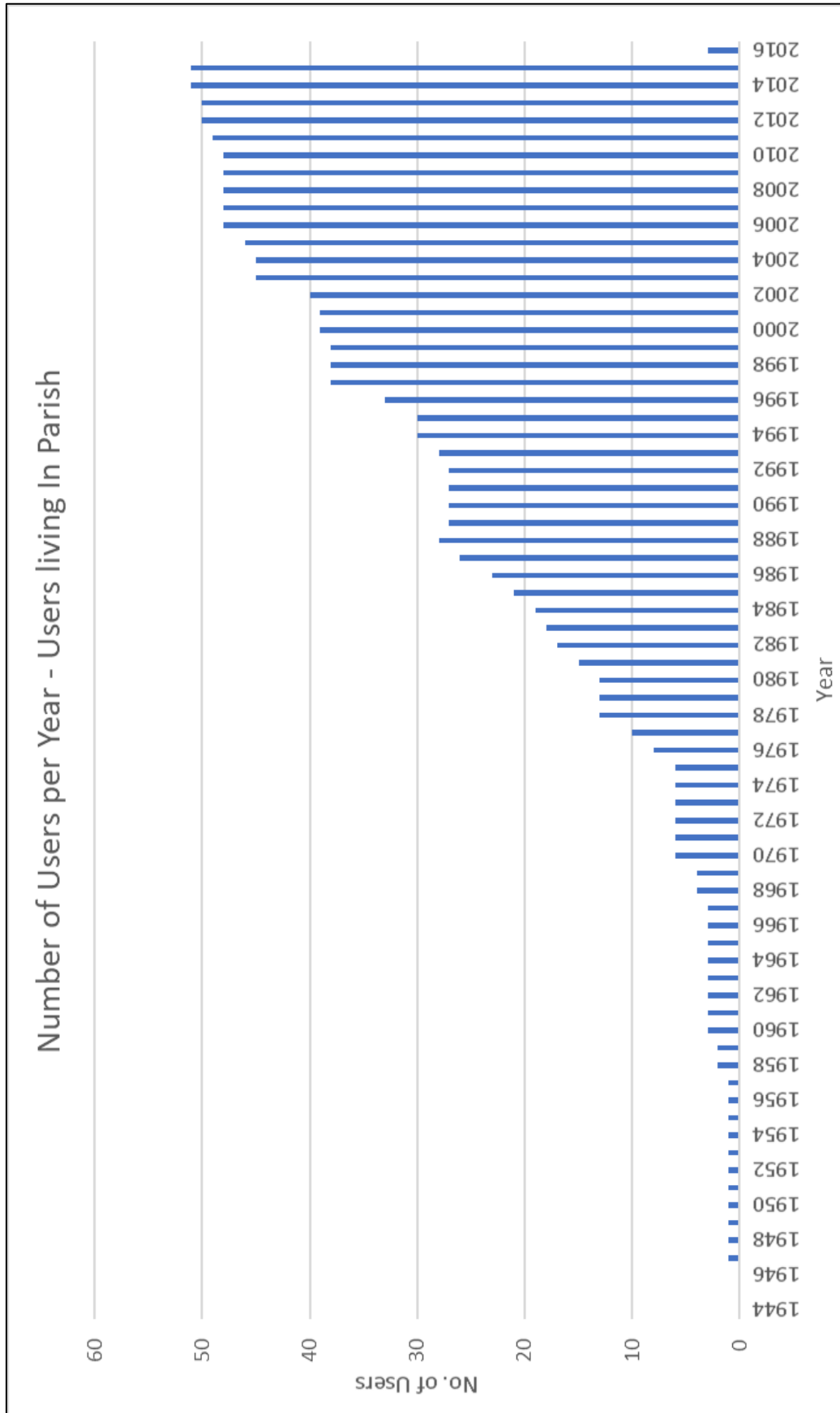


User evidence table showing activities in which users participated (users living within parish, excluding use as a right of way

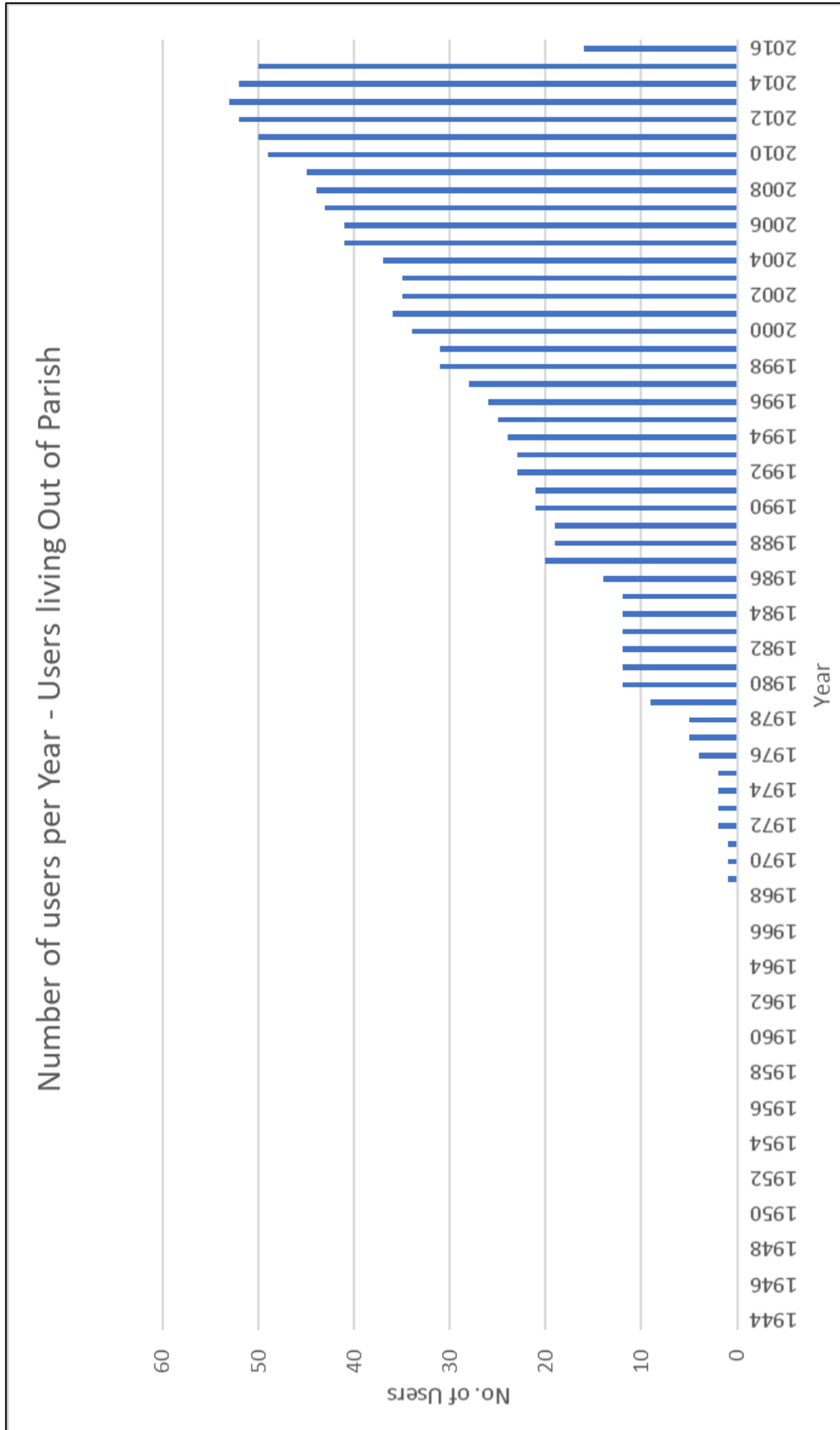
ID	Walk	Dog walk	Run	Cycle	Horse Ride	Draw	Play	Picnic	Wildlife wtch	Photo	Other	
1	■	■		■	■	■	■	■	■			
2	■	■		■	■		■		■		games	
6	■	■		■	■				■	■		
7	■	■		■	■				■	■		
8	■	■	■	■	■							
9	■	■		■	■							
12	■	■		■	■		■		■		geocache	
13	■	■	■	■	■		■	■	■	■	den build	
19	■	■			■							
21		■							■			
22	■	■	■	■	■		■		■			
26	■	■			■				■	■		
28		■		■	■		■		■		tree climb	
29		■		■	■				■			
32		■		■	■							
35		■			■				■			
36		■			■							
39		■		■	■		■					
40		■			■							
42	■	■	■	■	■		■		■			
43	■	■		■	■				■		chestnut gath	
47		■			■							
49	■	■	■	■	■				■	■		
52	■	■		■	■				■			
53		■		■	■		■		■			
54	■	■		■	■		■			■		
56	■	■		■	■		■		■	■	tree climb	
57	■	■	■	■	■		■		■			
59	■	■		■	■			■	■	■	reading	
61		■										
63		■			■						chestnuts	
64	■	■			■							
65	■	■			■				■			
Total	18	22	2	6	13	0	8	1	14	4		
Total	3	8	4	15	16	1	4	2	7	4		
Key	■	Activity by self, may have seen other too										
	■	Witnessed others doing this activity										

Charts to show level of use over time

All qualifying users living within parish at least some of the time



All users providing no evidence that they lived within parish



Prohibitory sign

