



Partners

MEMORANDUM

DATE: 12 January 1995

TO: Assistant Head of Development Services (Planning Control)
- R G Curtis

FROM: Head of Legal and Administrative Services
(Mr D H Hamilton)

EXTENSION: 4087

OUR REF: DHH/JW/L/a/1/5/0/9

YOUR REF: RGC/MP

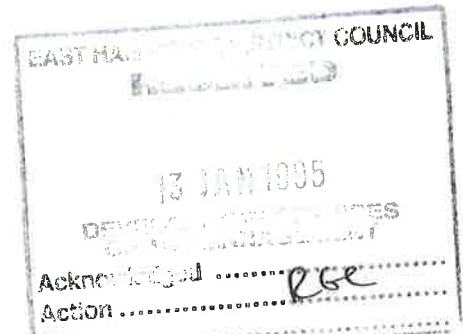
Second Memo

Re: Pigeons Copse, Hillbrow Road, Liss

I enclose herewith a copy of the Article 4 Direction made on 21 December 1993. I also enclose a copy of the formal notification served on the owner, Mr S J Crabtree, and a copy of the letter I have sent to the Secretary of State advising him why the Council consider it appropriate to make this direction. The Secretary of State has until 23 June 1995 to either allow or disallow this Article 4 Direction. In the meantime you may wish to retain the enclosures for your formal record.

DHH

Head of Legal and Administrative Services



EAST HAMPSHIRE DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990
GENERAL DEVELOPMENT ORDER 1988

Notice of making of Direction under article 4 of General Development Order 1988

To: Mr S J Crabtree of 17 Loxwood Road, Lovedean, Portsmouth, Hampshire PO8 9TU

EAST HAMPSHIRE DISTRICT COUNCIL GIVES YOU NOTICE as owner of the land described in the First Schedule to this Notice ("the Land") that the Council have made a Direction under article 4 of the General Development Order 1988.

The Direction relates to development of the type specified in the Second Schedule to this Notice within the area described in the First Schedule to this Notice.

The effect of the Direction is that permission granted by article 3 of the General Development Order shall not apply to development of the type specified in the Second Schedule to this Notice and that such development shall not be carried out on the Land unless planning permission is granted by the Council on an application made to them.

A copy of the Direction and of the map defining the area of land covered by it may be seen at the offices of the Council at Penns Place, Petersfield, Hampshire during normal office hours.

The Direction was made by the Council on *21 December 1994* and comes into effect in relation to the Land on the date this Notice is served on you, the owner.

FIRST SCHEDULE

The land shown on the plan annexed to this notice and thereon edged in red variously known as Rake Common, the Plantation and Pigeon Copse and situated to the south of Hill Brow Road, Liss, Hampshire.

SECOND SCHEDULE

War Games as defined in Schedule 2 Part 4 Class B of the General Development Order 1988 and Paint Ball Games whether or not War Games and any use permitted by the said Class B.

Dated: *23 Dec 1994*

JED Jethell
Signed: *for* HEAD OF LEGAL AND ADMINISTRATIVE SERVICES
Duly authorised officer of the authority

94120961/DHH/MP
15th December 1994
{le/gen}

Reasons for the Direction - Threat to the Amenities of the Area

- (a) The East Hampshire District Local Plan was adopted by the District Council in November 1993. In that Plan the East Hampshire Area of Outstanding Natural Beauty was designated. A copy of Figure 2 designating that area is enclosed. Policy ENV2 states "In the East Hampshire Area of Outstanding Natural Beauty particular attention will be given to the protection and enhancement of the countryside. Only in very exceptional circumstances will development be permitted which would adversely affect the special scenic quality of the landscape of the AONB".
- (b) Chapter 3 paragraph 3.3 of the Local Plan reads as follows "The East Hampshire Area of Outstanding Natural Beauty was designated in 1962 by the Countryside Commission and is considered to be of national landscape importance. In this area the overriding consideration is to protect and enhance the environment in order to retain the special quality and character of the landscape. The District Council aims to protect the AONB from obtrusive development and particular attention will be given to the siting and design of new development. It would be inconsistent with the aims and the designation of the AONB to permit the siting of major development whether this be minerals, industrial, commercial or housing development".
- (c) The land affected by the Direction lies within this Area of Outstanding Natural Beauty. The land is also surrounded by substantial residential properties all of which have gardens which back onto the land. The owner does not own one of these adjoining properties.
- (d) The Council received a number of complaints from neighbours concerning the carrying out of sporting activities on the land, possibly on a commercial basis. One neighbour kept a diary which she produced for inspection containing entries relating to so-called paintball games on 26 occasions between 21st January and 1st June 1994. Another neighbour alleged that organised paintball games took place on average 3 times a week. 28 members of the public attended the Committee meeting at which the decision to take enforcement action was made. There was clear evidence of organised competitions including the establishment of a club and the awarding of prizes for competitive events. The owner has agreed that organised paintball games have taken place on the land. He has agreed that Field Target Air Rifle competitions have been held on the land on a regular basis.
- (e) The Council in the light of the provisions of the Local Plan affecting this area do not believe that organised war games, paintball games or rifle shooting competitions should take place on the land. These actions, in the Council's view, would affect the amenity of the area, as is evidenced by complaints which the Council have received from neighbours adversely affected by this activity. The Council take the view that commercial exploitation of the land

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ARTICLE FOUR DIRECTION

EAST HAMPSHIRE DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990
GENERAL DEVELOPMENT ORDER 1988

Direction under Article 4 of the General Development Order 1988
Restricting Permitted Development

RECITALS

1. East Hampshire District Council ("the Authority") is the local planning authority in respect of the area of land specified in this Direction.
2. The Authority is satisfied that it is expedient that the development described in Schedule 2 to the General Development Order 1988 ("the Order") and specified in this Direction should not be carried out unless permission is granted for it on an application.

NOW THEREFORE the Authority in pursuance of article 4 of the Order and all other powers thereby enabling

DIRECTS THAT

1. The permission granted by article 3 of the Order shall not apply to development specified in the First Schedule to this Direction in the area specified in the Second Schedule to this Direction ("the Land").
2. It is expressly provided that this Direction shall apply to the temporary use of land permitted by Schedule 2 Part 4 Class B of the Order.
3. Pursuant to article 5(4) of the Order, this Direction does not require the approval of the Secretary of State because it relates only to development permitted by Parts 1 to 4 of Schedule 2 to the Order and the authority consider that the development would constitute a threat to the amenities of their area. The Direction shall expire at the end of six months from the date upon which it is made unless disallowed or approved by the Secretary of State. The Direction shall, in accordance with article 5(10) of the Order, come into force in respect of any part of the land on the date on which notice of the making of the Direction is served on the owner.

for sporting purposes is wholly inappropriate, given Policy ENV2. It is the Council's view that the permitted development rights granted under Schedule 2 Part 4 Class B have been abused by the owner and that there exists reliable evidence to suggest that the exercise of these rights has damaged, and will continue to damage, the amenity of the area if exercised. The withdrawal of the permitted development rights in the Direction is designed to cover not only war games (as defined in the Order) and paintball games, but also all sporting actions, and all classes of development referred to in Class B as being permitted. The Council take the view that if the rights withdrawn are defined only in specific terms the owner may well create other forms of recreation on the land and exercise these to the detriment of the amenity. For this reason the Council have removed all Class B rights. The Council of course appreciate that the applicant is entitled to apply for express planning consent for specific recreational purposes and any such applications will be treated entirely on their merits.

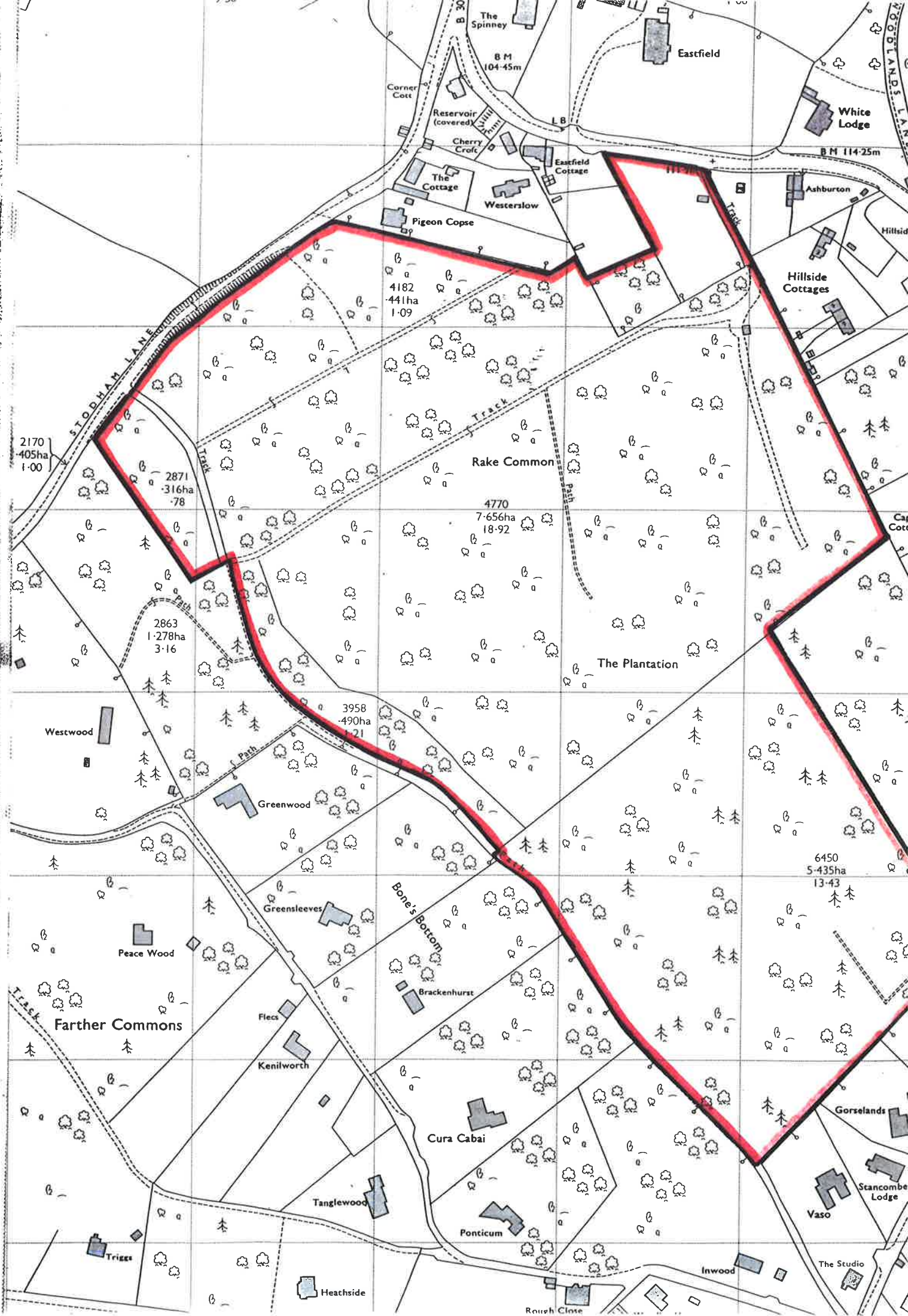
- (f) The Council regard it as significant that the owner is not the proprietor of any adjoining property so that this land could not be regarded as recreational land ancillary to any substantial private residence. The Council also regard it as significant that the land is a clearly defined woodland area consisting of approximately 35 acres with no authorised agricultural or commercial use whatever.

This Direction is submitted to the Secretary of State under Article 5(5) of the GDO 1988 for approval or disallowance within 6 months from 23rd December 1994.

Yours faithfully

Robert Butler
Head of Legal and Administrative Services

95010330



PLANNING LAW PRACTICE AND PRECEDENTS

FIRST SCHEDULE

War games as defined in Schedule 2 Part 4 Class B of the Order to mean an enacted, mock or imaginary battle conducted with weapons which are designed not to injure (including smoke bombs, or guns or grenades which fire or spray paint or are otherwise used to mark other participants) and Paint Ball Games whether or not War Games and any use permitted by the said Schedule 2 Part 4 Class B.

SECOND SCHEDULE

The land shown on the plan annexed hereto and therein edged in red variously known as Rake Common, the Plantation and Pigeon Copse and situated to the south of Hillbrow Road, Liss, Hampshire.

GIVEN UNDER THE COMMON SEAL

of EAST HAMPSHIRE DISTRICT COUNCIL

this 21st day of December 1994

R. Tetford

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Head of Legal and Administrative Services

DH/HS/94120962
20th December 1994
LE/GEN

