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**Date:** *27 October 2014*

## **NOTIFICATION OF PORTFOLIO HOLDER DECISION**

On 27 October 2014, Cllr Vickers, the Planning and Transportation Portfolio Holder, made the following decision.

In accordance with paragraph 10 of Annex 6 to the Constitution, the Head of Service and the Monitoring Officer have concluded that this is an urgent decision to which the provisions of Chapter 8 of the Constitution, insofar as they relate to the date on which a decision may be implemented, shall not apply, and the decision will be implemented immediately.

Details of the documents the Portfolio Holder considered are attached.

### **DECISION:**

That an immediate Article 4 Direction be made on land adjoining Marl and Puddleslosh Lanes, north of Fordingbridge, Hampshire (comprising approximately 26 hectares) restricting the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure being development comprised within Class A of Part 2 of Schedule 2 to the said Order and not being development comprised within any other Class.

### **REASON(S):**

As set out in the report considered by the Portfolio Holder.

### **ANY ALTERNATIVE OPTIONS CONSIDERED AND REJECTED:**

As set out in the report considered by the Portfolio Holder.

### **CONFLICTS OF INTEREST DECLARED:**

None

### **For Further Information Please Contact:**

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# PORTFOLIO HOLDER'S DECISION – PLANNING & TRANSPORTATION PORTFOLIO – 27 OCTOBER 2014

## PROPOSED ARTICLE 4 DIRECTION, LAND ADJOINING MARL AND PUDDLESLOSH LANES (COMPRISING ABOUT 26 HECTARES), NORTH OF FORDINGBRIDGE, HAMPSHIRE.

### 1 INTRODUCTION

- 1.1 In view of the threat of uncontrolled and potentially damaging permitted development taking place in the form of the erection of fences, walls, gates and other means of enclosure, the Council is proposing additional control over an area of land on the outskirts of Fordingbridge as identified on the attached plan (Appendix 1). The form of control is by way of making an Article 4 Direction under the Town and Country Planning (General Permitted Development) Order 1995 to remove permitted development rights to erect fences and other means of enclosures.
- 1.2 The land is located to the North West of Fordingbridge. It is accessed by either Marl Lane, which runs parallel to the Southern boundary; Puddleslosh Lane, which forms the Western boundary, or a track that leads from Whitsbury Road to the East.
- 1.3 The land which is primarily level ground, measures approximately 29.5 ha. in total, divided between ten parcels, of varying sizes. These parcels could be subdivided further with the associated introduction of inappropriate fences or similar means of enclosure around unduly small areas. These would significantly fragment the traditional rural landscape thereby degrading the pleasant open nature of this part of the District.
- 1.4 An Article 4 Direction restricting new fencing does not mean that proposals for such development will not be acceptable but it enables the local planning authority to control it through the consideration of a planning application. Fencing proposals would be assessed against their impact on the character of the area alongside any justification, for example, in agricultural terms. Planning officers consider that creating smaller plots of less than 0.4 ha (1 acre) would be harmful to the open aspect of the rural landscape. As long as plots are no smaller than this, then it is unlikely that officers would resist the erection of fences or means of enclosures through the submission of a planning application.
- 1.5 Photographs of the area are attached as Appendix 2.

### 2 DEVELOPMENT TO BE CONTROLLED

- 2.1 The Development which is to be controlled by the Article 4 Direction is as follows:-  
*“The erection, construction, maintenance, improvement or alteration of a gate,*

*fence, wall or other means of enclosure being development comprised within Class A of Part 2 of Schedule 2 to the said Order and not being development comprised within any other Class.”*

### **3 PROCEDURES**

- 3.1 An Article 4 Direction removes specified permitted development rights. The Council can serve two types of Article 4 Direction - immediate and non-immediate. An immediate direction can be used with regard to fences and means of enclosure. Government advice is that Directions should only be made in limited situations where it is necessary to protect local amenity or the wellbeing of the area.

The current planning guidance makes it clear that there should be particularly strong justification for the removal of permitted development rights relating to;

“agriculture and forestry development. Article 4 directions relating to agriculture and forestry will need to demonstrate that permitted development rights pose a serious threat to areas or landscapes of exceptional beauty.”

- 3.2 Once it has been decided a Direction is appropriate it is necessary to draft and then serve the Notice locally (site notices, letters to landowners/occupiers and newspaper advert) and notify the Secretary of State. These notifications advise on the period within which representations can be made and, if any are received, they must be considered and a decision made whether to confirm the Direction within six months. If the Direction is confirmed, a further Notice has to be served.

### **4 JUSTIFICATION FOR AN IMMEDIATE ARTICLE 4 DIRECTION**

- 4.1 The land is an attractive area of open countryside immediately to the north of the built up area of Fordingbridge. Most of the land is understood to have been part of a larger agricultural unit. Public rights of way run alongside the site on two sides and offer attractive views across the land. These rights of way are extensively used for leisure and recreational purposes mainly by residents of the adjoining urban area. Although there is no formal landscape designation, the land forms an important and well used area of rural open space.
- 4.2 In the recent past most of the land was subdivided into 10 lots and sold to individual purchasers. Two of these lots have been subject to planning enforcement action by the District Council for unauthorised development. It is understood that two further lots are likely to be subdivided into smaller parcels and then sold to individual purchasers.

Further fencing or enclosure of these areas into unduly small parcels would damage the visual amenities of the area. Government advice and Local Planning policies both refer to the need to protect and enhance the natural environment and

the protection of valued landscapes and it is considered that these both justify the need for a Direction and would provide a framework for considering any applications received.

- 4.3 In this case it is considered that the exceptional circumstances necessary to justify an immediate order exist in that the land has been sold into smaller parcels and local information indicates a very real risk of these being subdivided further. This is not acceptable in an uncontrolled manner for the reasons set out above.

## **5 COMPENSATION**

- 5.1 If a planning application is made for the development where permitted development rights are withdrawn by a Direction and that application is refused or granted subject to more onerous conditions than in the General Permitted Development Rights, then compensation may be payable. Such compensation is payable if it can be shown that a person has incurred expenditure in carrying out work (including the preparation of Plans) rendered abortive by the Direction or otherwise sustained loss or damage directly attributable to the Direction including depreciation of the value of land.

In this case the Direction would solely restrict the ability to erect fences and other means of enclosure. It would not seek to control the use of land. As already stated, Officers consider that such control would not be used in an overly restrictive manner as suitable fencing around reasonable sized areas of land of at least 0.4 hectare would be likely to be supported.

- 5.2 Independent advice has been sought on the compensation point and that advice is that no compensation would be payable if landowners were permitted to fence the land into plots of no less than 0.4 ha in size. A full copy of the independent advice (which is being treated as Exempt information) is attached at Appendix 3.

## **6 CONCLUSION**

- 6.1 It is clear that the uncontrolled erection of fences on unrestricted parcels of land in this attractive open countryside would undermine the visual amenity of the area contrary to adopted Policy and government advice. Thus, the first relevant test when considering the need for an Article 4 Direction is met. It is also considered, based upon local knowledge and the recent planning history of the area, the situation with regard to land ownership does indicate that a very real threat exists. This being the case an immediate Direction is proposed. On the basis of the advice received, the Council's liability to pay any compensation is most unlikely as long as there is no objection to creating smaller plots of no less than 0.4 hectare. If there were likely to be objections to any planning application submitted after the making of the Article 4 Direction to the subdivision of plots of this size with fences, the compensation issues are as set on in Appendix 3.



## **7. CONSULTATION UNDERTAKEN**

- 7.1 Public consultation has not been undertaken bearing in mind the nature of the intended proposal.

## **8. FINANCIAL, ENVIRONMENTAL, CRIME & DISORDER AND EQUALITY & DIVERSITY IMPLICATIONS**

See Sections 5 and 6 above.

## **9. ANY OTHER OPTIONS CONSIDERED AND REJECTED**

The only options in this case are to either seek control or not. The need for control in this case and the form of that control is considered in the body of the report.

## **10. CONFLICTS OF INTEREST DECLARED:**

None.

## **11. RECOMMENDATION**

That an immediate Article 4 Direction be made on land adjoining Marl and Puddleslosh Lanes (comprising approximately 26 hectares) restricting the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure being development comprised within Class A of Part 2 of Schedule 2 to the said Order and not being development comprised within any other Class. A draft of the Direction is attached at Appendix 4.

**Portfolio Holder's endorsement:** I agree the recommendation to serve an immediate Article 4 Direction.

F P VICKERS

**SIGNED:**

Cllr Vickers  
Planning and Transportation Portfolio Holder

**DATE: 27 October 2014**

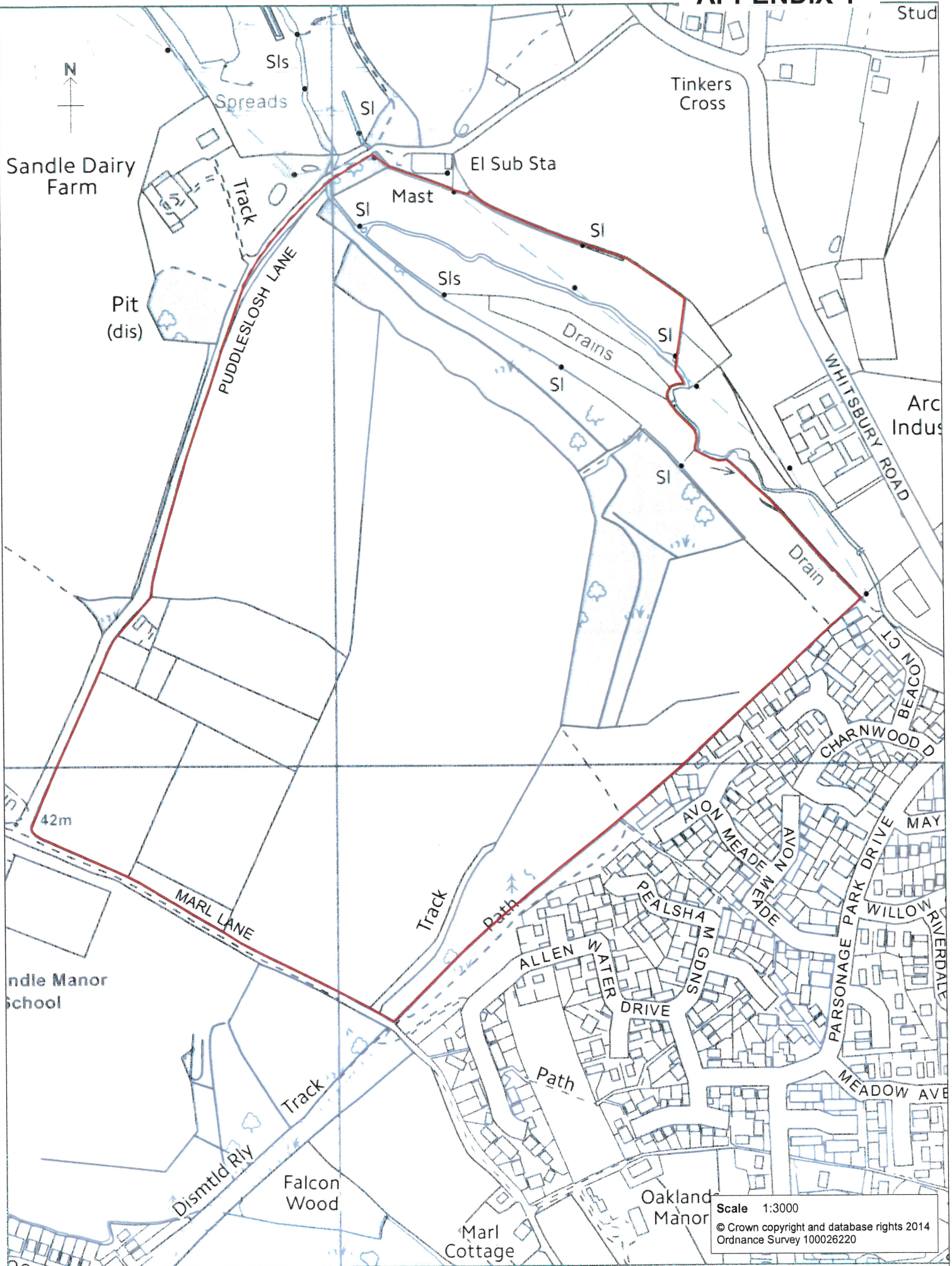
**For further information contact:**

Chris Elliott  
Head of Planning & Transportation  
Tel: 023 8028 5588  
E-Mail: [chris.elliott@nfdc.gov.uk](mailto:chris.elliott@nfdc.gov.uk)

**Background Papers:**

Planning File and Report and Employed  
Valuation dated 24<sup>th</sup> September 2014

Exempt Information



Scale 1:3000  
 © Crown copyright and database rights 2014  
 Ordnance Survey 100026220

**ARTICLE 4 DIRECTION**

Land adjoining Fordingbridge  
 Marl Lane / Puddleslosh Lane

SU1405  
 Scale 1:3000



Land adjoining Fordingbridge, Hampshire - 19<sup>th</sup> August 2014



Parcel 1



Parcel 2



Parcel 2



Land adjoining Fordingbridge, Hampshire - 19<sup>th</sup> August 2014



Parcel 3



Parcel 3



Parcel 3

Land adjoining Fordingbridge, Hampshire - 19<sup>th</sup> August 2014



Parcel 4



Parcel 4



Parcel 4



Land adjoining Fordingbridge, Hampshire - 19<sup>th</sup> August 2014



Parcel 4



Parcel 4



Parcel 4

Land adjoining Fordingbridge, Hampshire - 19<sup>th</sup> August 2014



Parcel 5



Parcel 5



Parcel 5



Land adjoining Fordingbridge, Hampshire - 19<sup>th</sup> August 2014



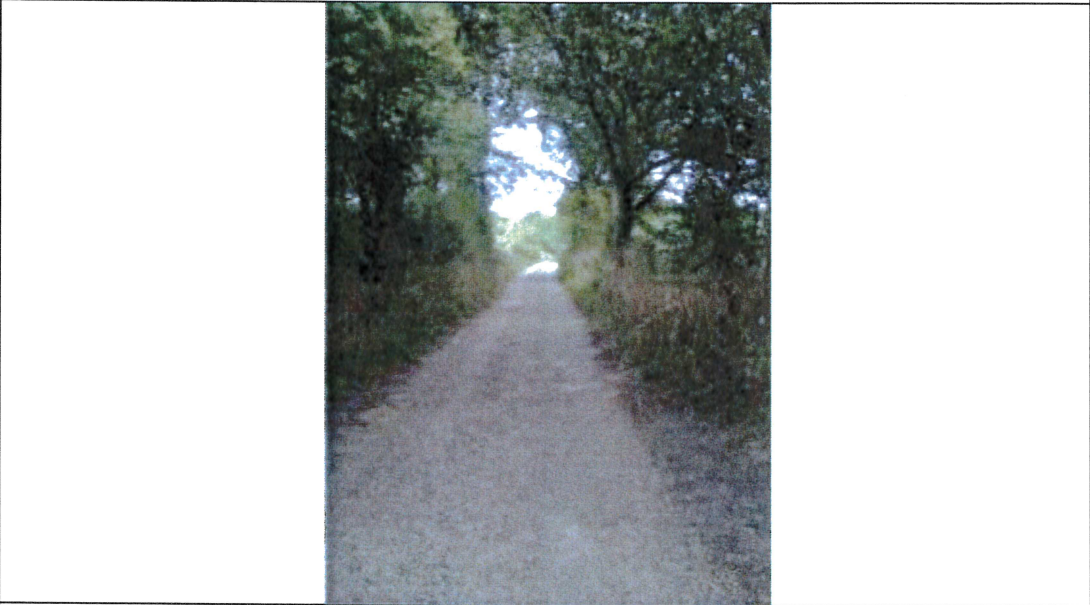
Parcel 6



Parcel 7



Puddleslosh Lane



Puddleslosh Lane

Land adjoining Fordingbridge, Hampshire - 19<sup>th</sup> August 2014



Parcel 8



Parcel 8



Parcel 8



Land adjoining Fordingbridge, Hampshire - 19<sup>th</sup> August 2014



Parcel 8



Parcel 8

Land adjoining Fordingbridge, Hampshire - 19<sup>th</sup> August 2014



Parcel 9



Parcel 10

Land adjoining Fordingbridge

Parcel	Title No.	Owner	Hectares	Acres	Purchase Price	Purchase Date	£/acre	Use	Comments
1	HP328328	Richard & Rebecca Waits	1.43	3.53		September 2010		Paddock	As shown on LR Plan / Rd access
2	HP320823	Felix Connors	1.39	3.43	£29,500	March 2013	£8,589	Paddock	As shown on LR Plan / Rd access
3	HP289139	Rachel Dobson	1.87	4.62	£65,000	March 2012	£14,067	Paddocks with Stables	As shown on LR Plan / Rd access
4	HP41173 (Pl)	PDM Farming Ltd	7.54	18.63	£320,000	January 2012	£9,244	Poor grassland & copse	As shown on LR Plan / New fences being added / Rd access
5	HP768921	Derek & Dianne Coles	1.80	4.46	£5,000	January 2014	£766	Mature deciduous woodland	As shown on LR Plan / Certain boundaries unfenced / Track access
			0.84	2.07				Welland	Effectively Landlocked
6	HP764666	Adam Anderton & Helen Snart	1.24	3.06	£17,500	September 2013	£5,711	Mature deciduous woodland	As shown on LR Plan / Certain boundaries unfenced / Landlocked without Parcel 7
7	HP762408	Adam Anderton & Helen Snart	2.44	6.03	£42,500	June 2013	£7,049	Welland with Stream	As shown on LR Plan / Certain boundaries unfenced / Assumed track access from Rd
8	HP770835	Shaun Gunn & Kirsty Bourne	3.57	8.82		April 2014		Paddocks / Pasture	As shown on LR Plan / New fences being added / Rd access
9	HP764762	Nicholas Crowe & Sophia Fletcher	1.18	2.92		October 2013		Paddock	Thought as shown on LR Plan / Rd access
10	HP41173 (Pl)	PDM Farming Ltd	6.47	15.99		January 2012		Pasture	As shown on LR Plan / New fences being added / Rd access
Totals			29.77	73.56					

Land adjoining Fordingbridge, Hampshire - Comparable Sales

Property	Location	Acres	Status	Date	Sale Price	Agent	£/Acre
Land at Blashford	Ringwood, Hants	6.88	Sold	Q3 14	£85,000	Woolley & Wallis	£12,725
Land at South Winstan	Winchester, Hants	8.27	Sold	Q3 12	£106,000	Savills	£12,817
Land at Colehill	Wimborne, Dorset	9.93	Sold	Q3 12	£150,000	Symonds & Sampson	£15,106
Land at Fir Grove Farm (Lot 2)	Eversley, Hants	10.42	Sold	Q4 12	£120,000	Savills	£11,516
Land at West Wellow	Hants	10.7	Sold	Q4 13	£165,000	Woolley & Wallis	£15,421
Land at Bramshaw	Lynnhurst, Hants	10.75	Sold	Q2 12	£165,000	Hayward Fox	£15,349
Land at Lockerley	Hants	11	Sold	Q3 12	£155,000	Woolley & Wallis	£14,091
Land at Ashley Heath	Ringwood, Hants	11.24	Sold	Q2 14	£120,000	Woolley & Wallis	£10,676
Land at Verwood Road	Woodlands, Dorset	12.73	Sold	Q3 13	£190,000	Symonds & Sampson	£14,925
Land at Bleak Hill	Ringwood, Hants	14	Sold	Q3 14	£150,000	Symonds & Sampson	£10,714
Land at Ringwood Road	Fordingbridge, Hants	18.87	Sold	Q2 14	£190,000	Symonds & Sampson	£10,069
Land at Whiteparish	Hants	21	Sold	Q4 13	£175,000	Woolley & Wallis	£8,333
Land at Wadleston Farm	Gillingham, Dorset	56.46	Sold	Q4 13	£525,000	Stags	£9,299
Lower Farm	Blandford Forum, Dorset	58.43	Sold	Q1 14	£475,000	Carter Jonas	£8,129
Land At Trunkwell Farm	Reading, Hampshire	82.00	Sold	Q4 13	£700,000	Carter Jonas	£8,537
Average Small Parcel							£13,822
Poor access							-25%
Adopted Small Parcel							£10,000
Average Large Parcel							£10,530
Poor access							-25%
Adopted Large Parcel							£8,000

Woodland at Fordingbridge - Comparable Sales

Property	Location	Acres	Status	Date	Sale Price	Agent	£/Acre
Ram Alley	Ashford Hill, Berks	8.6	Sold	Q2 14	£42,500	Smiths Gore	£4,942
Dolly's Firs	Froxfield Green, Hants	14.01	Sold	Q3 12	£72,000	John Clegg & Co	£5,139
Average							£5,041
Poor access							-25%
Adopted							£3,781
							£3,750

Wetland at Fordingbridge - Comparable Sales

Property	Location	Acres	Status	Date	Sale Price	Agent	£/Acre
Land at Gussage All Saints	Wimborne, Dorset	8.28	Sold	Q2 14	£80,000	Symonds & Sampson	£9,662
Land at Baverstock	Dinton, Hants	14.93	Sold	Q3 14	£105,000	Woolley & Wallis	£7,033
Average							£8,347
Poor access							-25%
Adopted							£6,260
							£6,250

Actual Sales

Lot	Acres	Status	Price	£/acre
Lot 4-1	5	U/O	£50,000	£10,000
Lot 4-2	4.2	U/O	£42,000	£10,000

Large to Small

Discount	
	20%

Unfenced

Discount	
	20%
Revised	£3,000
Say	£3,000

Unfenced

Discount	
	20%
Revised	£5,000
Say	£5,000



**Article 4 Direction**

**TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT)  
ORDER 1995 AS AMENDED**

**DIRECTION MADE UNDER ARTICLE 4(1) TO WHICH ARTICLE 5 & 6 APPLY**

WHEREAS New Forest District Council being the appropriate local planning authority within the meaning of article 4(4) of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (“the Order”), are satisfied that it is expedient that development of the description set out in the Schedule below should not be carried out on the land shown edged red on the attached plan, unless planning permission is granted on an application made under Part III of the Town and Country Planning Act 1990 (as amended).

NOW THEREFORE the said Council in pursuance of the power conferred on them by article 4(1) of the Order hereby direct that the permission granted by article 3 of the Order shall not apply to development on the said land of the description(s) set out in the Schedule below:

THIS DIRECTION is made under article 4(1) of the Order and, in accordance with article 6(7) of the Order, shall remain in force until 27 April 2015 (being six months from the date the Direction comes into force) and shall then expire unless it has been confirmed by the appropriate local planning authority in accordance with paragraphs (9) and (10) of article 5 of the Order before the end of the six month period.

SCHEDULE: The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure being development comprised within Class A of Part 2 of Schedule 2 to the Order and not being development comprised within any other Class.

Made under the Common Seal of New Forest District Council this .....day of.....20..... The Common Seal of the Council was affixed to this Direction in the presence of .....

Head of Legal and Democratic Services

Confirmed under the Common Seal of New Forest District Council this .....day of.....20..... The Common Seal of the Council was affixed to this Direction in the presence of .....

Head of Legal and Democratic Services