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**Date:** 1 April 2015

## **NOTIFICATION OF PORTFOLIO HOLDER DECISION(S)**

On 25 March 2015 Cllr Vickers the Planning and Transportation Portfolio Holder, made the following decision. Any member of the Council, who is not a Portfolio Holder, who considers that this decision should be reviewed should give notice to the Monitoring Officer (Grainne O'Rourke) (in writing or by e-mail) to be received **ON OR BY FRIDAY 10 APRIL 2015**.

Details of the documents the Portfolio Holder considered are attached.

### **DECISION:**

To confirm the Article 4 Direction that had been imposed on land adjoining Marl Lane and Puddleslosh Lanes, north of Fordingbridge on 27 October 2014. This decision was taken following consideration of representations received in response to the Immediate Direction that was imposed on that date. The effect of the Article 4 Direction is to control:

*"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:**

David Groom, Development Control Manager;  
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**PORTFOLIO HOLDER'S DECISION – PLANNING & TRANSPORTATION  
PORTFOLIO – 25 MARCH 2015**

**CONFIRMATION OF THE IMMEDIATE ARTICLE 4 DIRECTION IMPOSED ON 27  
OCTOBER 2014 REGARDING LAND ADJOINING MARL AND  
PUDDLESLOSH LANES, NORTH OF FORDINGBRIDGE, HAMPSHIRE.**

**1 INTRODUCTION**

1.1 In view of the threat of uncontrolled and potentially damaging permitted development taking place in an area of land on the outskirts of Fordingbridge (as shown on the plan attached as Appendix One) the Planning and Transportation Portfolio Holder agreed on 27 October 2014 to the service of an immediate Article 4 Direction.

1.2 The Direction controls

*“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 copy of the report (without the appendices it refers to) that led to the service of the Immediate Direction is attached as Appendix Two. The Immediate Direction runs for a period of six months at which time it lapses if it has not been confirmed.

1.3 This report considers whether the Immediate Direction should be confirmed in the light of the comments received following the public consultation undertaken and a further review as to whether a Permanent Direction is justified in the light of the relevant government advice.

**2 THE SERVICE OF THE IMMEDIATE NOTICE AND THE COMMENTS RECEIVED**

2.1 Letters were sent to the owners of the land covered by the Immediate Direction on 28 October 2014. Site notices were posted and an advert placed in the press. These all advised as to the service of the Notice and invited comments to be made by 28 November 2014.

2.3 To date eight comments have been received, attached as Appendix Three. They can be summarised as follows.

Two letters of support albeit both suggest that the Direction might not go far enough to halt the damage already caused by development in the area.

The remaining letters raise concerns over the principle of a Direction in view of the impact on essential agricultural activities, the extent of the area of land included, the lack of understanding as to what would require permission as a result, conflict with other animal welfare legislation, liability if animals stray due to inadequate fencing, the lack of any need for such a restriction, devaluation of land, lack of need, the low landscape value of the area and the fact that no evidence exists that the threatened subdivisions may take place. These concerns are considered below.

### **3 CONSIDERATION AS TO WHETHER THE ARTICLE 4 DIRECTION SHOULD BE CONFIRMED**

#### Government Advice

- 3.1 Government advice is that Article 4 Directions should only be made in limited circumstances where necessary to control the exercise of permitted development rights. Amongst the relevant criteria to consider when making this judgement is whether development would:

“Undermine the visual amenity of the area or damage the historic environment”

Directions seeking to control agricultural activities need to demonstrate that the use of such rights pose a serious threat to areas or landscapes of exceptional beauty.

- 3.2 At the time of the service of the Immediate Direction it was considered these tests were met as the land was not only open and generally attractive but also highly visible from well used public rights of way. Further fencing or enclosure into small parcels of land was seen as particularly damaging and therefore contrary to government advice on the countryside and local planning policy.

- 3.3 The situation is not materially different now notwithstanding changes that have taken place on the land concerned. These involve further development comprising the erection of buildings and structures (not covered by the Article 4 Direction) and the erection of additional enclosures. There are ongoing enforcement investigations in respect of these breaches but it is felt that the uncontrolled erection of fencing and the damage caused has justified the Article 4 Direction as this brings them within Council control. This does not mean that any such applications would be refused but that the Council would have the ability to ensure that no untoward subdivision takes place and that any fencing is appropriate to its location in terms of height, materials and form which is not presently the case.

- 3.4 In addition, it should be noted that two of the comments received support the proposal and a review of relevant recent planning and enforcement files shows a strong public support for controlling development in this area given the high regard it is held in.

- 3.5 In the light of the above it is considered that the justification for an Article 4 Direction is as strong now, if not stronger, than when the Immediate Direction was served.

- 3.6 Comments Received

It is necessary to weigh the justification identified above against the comments received. In doing this it has to be accepted that the Direction would impose an additional burden on agricultural activities as permission would be required for works that otherwise would not require consent. This will impose time and financial penalties (no fee for the required applications has to be paid but completing the form and providing drawings etc. will have a cost) on those undertaking such activities but this is unavoidable and has to be balanced against the identified need to introduce such control.

- 3.7 Requests have been made to exclude land from the order. These have been considered but it is felt the geographic boundaries selected reflects the area of concern and that any reductions would limit the benefits of the Direction as previously described. Concerns are also expressed about the level of control and the inherent

lack of clarity as to what is restricted as, for example, it is unclear whether minimal repair works such as replacing a broken or cut wire or fence post would be allowed. These points are understood and the point is not to control minor maintenance. Therefore the word "maintenance" has been removed from the confirmed Order.

3.8 In terms of animal welfare if an owner chooses to place stock on land without sufficient fencing that is an issue for them not the Council and the same comments apply to any liability caused by not erecting or maintaining sufficient fencing. The Council is not saying fencing shall not be erected and suitable applications would be likely to be recommended for approval. Finally, devaluation of land, were it to occur, is not a relevant consideration at this time or when considering any applications required as a result of the service of the Direction.

3.9 In conclusion, it is considered that sufficient justification for the continuance of the Direction exists and that the comments received do not raise issues that outweigh the benefits of a Direction or mean that any changes have to be made to its content.

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

4.1 There are no further issues raised by this matter beyond those considered above. The potential for compensation was fully covered in the previous (attached) report and nothing has changed since then.

#### **5 ANY OTHER OPTIONS CONSIDERED AND REJECTED**

5.1 The only options in this case are to either seek control through the confirmation of the Article 4 Direction or not. The need for such control in this case and the form of that control is considered in the body of the report.

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

6.1 None.

#### **7 CONCLUSIONS**

7.1 In conclusion, it is considered that the particular value of this land lying as it does adjacent to Fordingbridge in a highly visible and well used location means that an Article 4 Direction is justified in the light of the threat to its value which the uncontrolled erection of enclosures would cause. Whilst the concerns set out in some of the responses are noted it is not considered that these overcome this identified need. The recommendation is that the Direction should be confirmed.

#### **8 RECOMMENDATION**

8.1 That the immediate Article 4 Direction be confirmed on land adjoining Marl and Puddleslosh Lanes (comprising approximately 26 hectares) restricting the erection, construction, 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 confirm the Article 4 Direction.

**SIGNED:** F P VICKERS

Cllr Vickers  
Planning and Transportation Portfolio Holder

**DATE: 25 March 2015**

**For further information contact:**

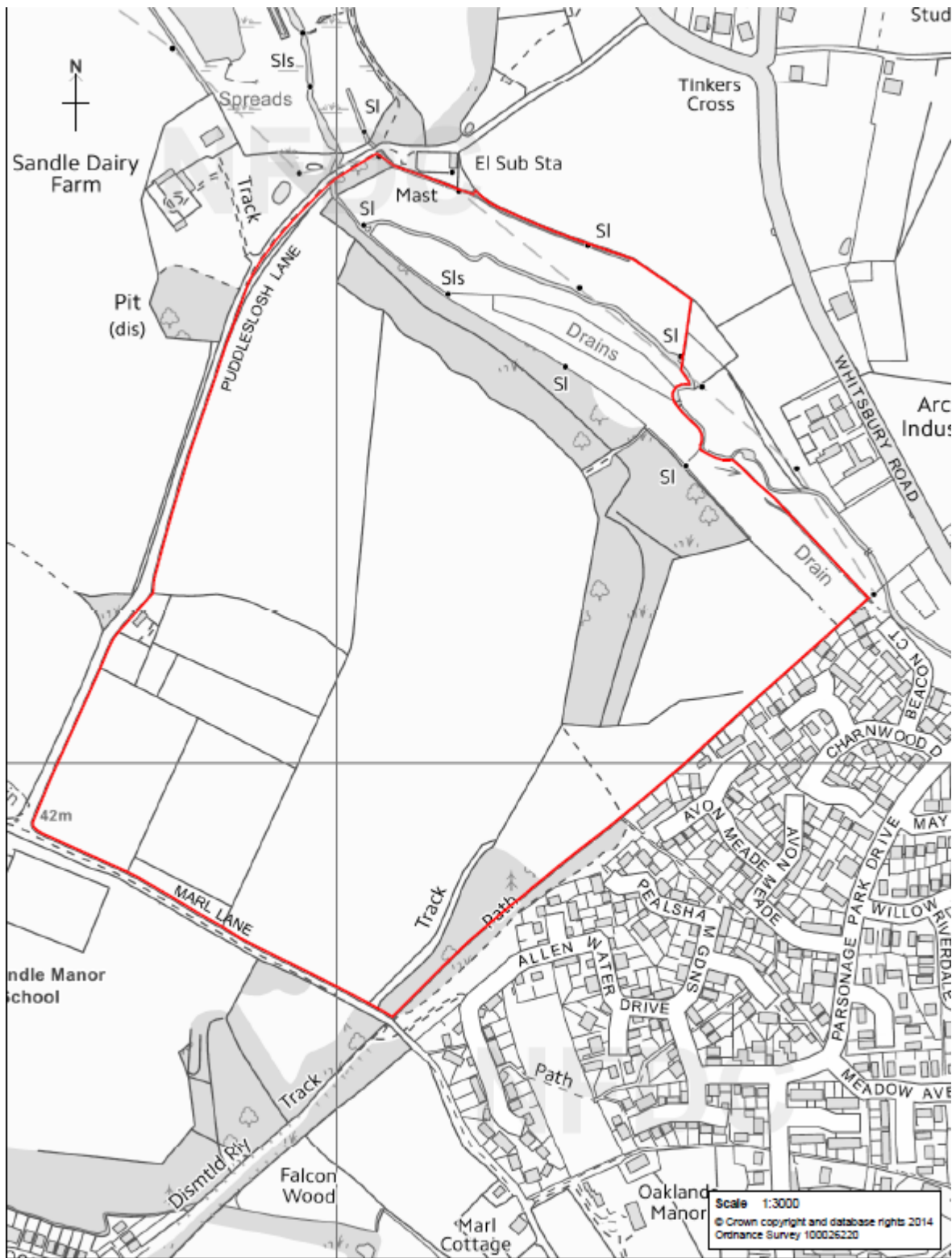
David Groom  
Development Control Manager  
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**Background Papers:**

Portfolio Holder Report regarding this  
land dated October 2014

Date Notice of this Decision given – 1 April 2015  
Last date for call in – 10 April 2015

# APPENDIX ONE SITE PLAN



## APPENDIX TWO

### 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.

**Portfolio Holder's endorsement:** I agree the recommendation to confirm the 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 24th September 2014

## APPENDIX THREE COMMENTS RECEIVED

As a landowner affected by the instruction under article 4 I would wholeheartedly support it fully if I believed it had any impact on preventing the current destruction of the area it suggests it protects. Sadly I don't believe it goes far enough to stop and remove activities such as those continuing at Sequoia Farm. With the continued development and erosion by sequoia farm - which is as far from being a farm as possible in this area- and totally disregard by other occupants, who at this very time (Thursday 30th October 2014: 5:30pm) are subdividing and creating additional access points on marl lane right by the notices setting out article 4! I am staggered at how the law abiding citizens are left without support whilst the illegal activities appear condoned. Are we not able to halt this now? I suspect damage to trees subject to TPO also.

It is devastating to see the damage in this small green pocket of land that was and still should be a community amenity. I also understand that the public access/right of way has been closed and walkers/dog walkers are no longer able to use it. Life here is rapidly becoming intolerable with the balance of justice tipping heavily on illegal occupancy and total disregard for the local residents being acceptable by the councils. What contributions are they making to either the councils or community? I am told they don't earn enough, however they seem cash rich enough to have got this far without any consequences to their actions. Can you advise how article 4 would redress this please?

Mrs Rebecca Watts

Good morning Mr Groom, I welcome this but surely it's shutting the door after the horse has bolted? The fields are already sub divided by lots of fences and there is a proliferation of gates into these lanes for access from each paddock. Why doesn't this Direction include buildings? , that in my opinion would be a lot more useful to the Authority in keeping control and put the residents' minds at rest with regard to all the illegal and retrospective Planning that is occurring there. The Quail House at Sequoia has been erected, (whether occupied by our feathered friends I don't know), before the Planning decision is made by yourselves!!! Thank you for the opportunity to put my points.

Colin Burt .

We are in receipt of your notification to withdraw permitted development rights affecting the land adjoining Marl and Puddleslosh lanes,

This article encompasses land that we own and as such drastically impacts on our ability to farm and manage this land. Attached Map, green shaded area highlighting our land.

To maximise the area, enabling the land to regenerate we need to strip graze, and also be able to separate cows that are to be put to the bull, whilst safely fencing off those that are too young etc, fence off woodland areas for the pigs as a vital part of the forests ecology, with this enforcement it means that every time we want to move enclosures, erect stock fencing on our land we have to apply for planning permission, which is not economical and time consuming.

We appreciate why this temporary action has been taken but would ask that given the topography of this section of land, that it would only ever be suitable for farming and forestry, and only has access via our property meaning it could not be split as it would be rendered land locked if this could be excluded in order for us to continue to farm our land effectively.

Helen Snart & Jason Anderton

I do feel the Article 4 Direction is unworkable for that area.

We own approx. 4.4 acres of land to the south east of the affected area.

Ultimately, this land is agricultural/grazing land there has always been the need to maintain the fencing to keep it stock-proof and stop livestock wandering off onto public highways. This land also has 'Forest Rights' enabling owners to depasture their ponies, cattle and donkeys onto the open wastes of the New Forest.

The Article 4 Direction is a blanket statement and includes the restriction of 'maintenance and improvement' of fences, gates or other means of enclosure in its wording. This is very confusing to livestock owners like us who need to 'maintain and improve' fencing and gates and enclosures all the time to contain the livestock. An instance in question - in the short time we have owned the field somebody has cut the wire in a 'Hampshire gate' to the adjoining 5 acre field to the west of ours (not in our ownership) to cross from that field into ours. Naturally this is criminal damage and we have reported this to the police, but it begs the question as to, are we allowed to 'maintain' it and repair the damage? Strictly speaking we would need planning to do so and we would be in breach of the Article 4 Direction if we carried out the repair? If the fence is severely damaged to the point of animals potentially escaping – what are we to do?

We would also need the freedom to be able to erect fences - temporary and permanent - at short notice to restrict grazing to prevent potentially fatal problems like laminitis and colic.

A question I have also, does this Direction cover temporary (tape) fencing on wooden and plastic posts?

Tony Vanderhoek

I find this enforcement violates the Animal Welfare Act 2006 (updated 2008).

The animal needs for a 'suitable environment' and the need to be 'housed with, or apart from other animals' is part of this Act.

To meet these needs necessitates rotating, restricting and resting of grazing which will essentially require fencing materials; whether permanent or temporary. The needs of livestock changes according to their health, seasons and weather conditions requiring appropriate changes to their enclosure management.

As a responsible owner I have always ensured our land is stock-proof regarding fencing, especially for public safety. I would be mortified if my animals roamed towards the nearest highway or ended up in someone's private property. This would require daily checking of damage to fences. The act of criminal damage of wire – cutting is another matter which has happened on several occasions in this area.

My main concern regarding this enforcement is one of liability. With this severe restrictive enforcement, who will actually be responsible if my animals have been allowed to roam into private gardens and highways inflicting damage along the way? I have read of a case of a claimant whose horse had been insured for public liability and the company decided the animals' fencing was not maintained and therefore was not secure enough which resulted in a horse causing thousands of pounds of damage to a private garden. It was decided that the insurance was void and the company would not compensate. Therefore, my question is – who will the finger be pointed at for compensation for damages or even gross negligence?

Let's not forget that this is privately owned land not amenity land.

The footpaths and bridleways -which are plentiful – surround the area. Amenity land is the free roam of the New Forest National Park on our doorstep. The Article 4 Direction is a totally inappropriate measure and also insulting.

Jacqui Vanderhoek

As owners of Lone Star Ranch, Puddleslosh Lane, Fordingbridge, we are writing to express our objection to the Article 4 Direction that has been imposed upon our land.

It has been hurriedly drawn up as a knee jerk reaction to local speculation and gossip over the sale of the remaining 2 lots within the 29.5 hectares of land adjoining Marl and Puddleslosh Lanes.

This Article 4 Direction is completely irrelevant to Lone Star Ranch.

Lone Star Ranch has been erroneously and prejudicially incorporated into this Direction purely because of its location within the 'red line' on your map.

Having read through the Portfolio Holder's Decision on this Article 4 Direction, and also comments made by Mrs Judith Garrity, I would like to emphasise the following reasons why Lone Star Ranch has been wrongly included within the designated area.

**Lone Star Ranch is not one of the 10 lots which were subdivided recently.** It was subdivided from the 29.5 hectares in 1935, and has since remained as a separate 4.5 acre plot. From the Portfolio Holder's Decision, Section 4 'Justification' it is clearly apparent that the notice is directed solely at the neighbouring c.27 hectares which 'have recently been subdivided and sold to individual purchasers'.

**Lone Star Ranch does not have enclosures of unduly small areas.** The land was historically split into 2 fields of approximately 2 acres each, and a stable block area. This is how it remains.

**Lone Star Ranch is not going to be subdivided in the future.** Since purchasing the land in 2012 we have not made further subdivisions, and have no intention of doing so – smaller enclosures are not suitable to our use. Nor are we intending to sell the land, or any part of it.

**Lone Star Ranch does not have an ‘uncontrolled erection of fences’.** The dividing fences between the fields have been replaced due to their poor state of repair, but no new fences have been erected.

**Lone Star Ranch does not have inappropriate fences.** We have made substantial financial investment in improving the appearance and functionality of the land since purchasing it. In particular, we have made considerable investment in replacing the perimeter fencing with a high quality post, rail and stock wire fence which is suitable not only for our use, but also provides a safe boundary to the footpaths that run alongside the North and East borders of our land. This fence is in no way ‘detrimental to the visual amenity of the area’, and in fact, has received many compliments from local residents and walkers.

**Lone Star Ranch has no recent planning history issues** and as such ‘no very real threat exists’ with this regard.

According to the Government’s website, Article 4 Directions are ‘used to control works that could threaten the character of an area of acknowledged importance’, such as conservation areas, areas of outstanding natural beauty, sites of specific scientific interest or National Parks.

**Lone Star Ranch is agricultural land within no such designation**, and as such, ‘current planning guidance makes it clear that there should be particularly strong justification for the removal of permitted development rights’. We can see no ‘particularly strong justification’ put forward by the NFDC that relates to our land.

This Article 4 Direction specifically concerns the erection and maintenance of gates, fences and enclosures. How can you reasonably place a maintenance restriction on livestock gates and fences? They need to be maintained for health and safety, and security reasons. If our fences become damaged or unsafe it is imperative that we repair them immediately – both to protect our livestock from escaping and to protect them from intrusion by walkers and their dogs, and also to prevent injury to walkers on the adjoining footpaths.

We therefore request that the NFDC reconsiders its irrefutably unjustified action of including Lone Star Ranch under this Article 4 Direction.

Raychel Dobson

Article 4 Direction, land at Puddleslosh Lane, Fordingbridge We are writing to you objecting to the Article 4 Direction your Council has put on the 26 Hectares of land north of Fordingbridge, of which myself and Miss Bourne own 9 acres. This is the land which is situated between Lone star and Sequoia Farms. We bought this land for our animals which is why we bought an agricultural site with permitted development for a building agreed for it.

We have read the report given to the Portfolio Holder and we must say we are a little confused by this because it seems to be suggesting that the land is a single coherent unit of open space, which it is not. Three of the plots were split in the 1930s and the others were sectioned between 2010 and 2014, so there are many fences that were already there. Reference is made in paragraph 4.1 of the report to the footpaths being “extensively used for leisure and recreational purposes” but this is certainly not true of the land which they pass through. The fact that for a number of years the public (mainly the residents of the adjoining urban area) have been trespassing by not staying to the allocated footpath may seem irrelevant to you. And anyway, as you also say in 4.1, there is no formal landscape designation and it is what it is: just a collection of small fields on flat open land with nothing particular distinctive about them. We cannot turn back the clock, nor should we try.

We also see in 4.2 of the report that the Council believe that two further lots are likely to be subdivided. I don't know what the evidence is for this, or what “local information” you might have, but we are not sure it is true. One has been sold as one whole piece. If the Council believe that it is what might happen to these currently unused plots that is causing the concern then place the Article 4 on those plots, before anyone makes any plans for their future. It is not right to retrospectively penalise us current users of the land and prejudice our plans.

Any fences we have erected have been for the protection of my animals and to keep the land in good condition, not to mention public safety, and the “maintenance” of proper boundaries is essential to what we do on our land. Any future fences will similarly only be what is needed. The restrictions the article 4 enforces are not acceptable, as it will make things more difficult than they need be without any obvious benefits to the public who can still enjoy walking the footpaths. Article 4 is overkill and very restrictive to land being used for what it was intended (agricultural). We think it ludicrous, for example, that we would have to notify you every time we need to move livestock to a small pen for whatever reason. One thing you seem to be unaware of is that our land enjoys the benefits of Forest rights. What goes with this is the need to be able to provide properly sized and maintained enclosures commensurate with what is required when animals have to be taken off the Forest.

If the NFDC is so concerned about this ‘precious’ landscape would it be willing to take responsibility for the safety of the public from my animals, and vice versa, because I cannot maintain satisfactory enclosures? And would it be prepared to take into account the need for relevant size enclosures for relevant size livestock as it would be inconvenient, for instance, to accommodate one pig in a 0.2 hectare space?

We cannot help but think that you are making the Article 4 Direction for the wrong reasons. We may well have a footpath running across our land, allowing the public passage from Puddleslosh Lane to the nearby housing estate, but this only allows narrow passage over privately owned farmland; it is not recreational ground. We also see in your conclusion you again refer to the land as “open” countryside. None of it is truly open; it is privately owned, enclosed and used for agriculture. We do not think that you should give any member of the public the impression that you can stop us preventing any continued unauthorised access to any more our land than use of the right of way, which we fear is how the Article 4 will be perceived.

When we think about it, the fact that your article 4 is on the land actually devalues it because we would simply not have purchased it if we were aware of this action. Is the NFDC going to compensate us for loss on our capital? In the time we have owned the land we have suffered from harassment, our horses have been chased by untethered dogs, and we have suffered dog mess, criminal damage, verbal abuse, all of which was reported to the police.

We just cannot understand why the Council believes it should be making our life even more difficult. After all we are just using the land for what it was intended.

Thank you for consulting us but please take into account our side of things and refrain from confirming the Direction. I am sure our neighbouring plot owners feel very much the same.  
Kind regards

Mr S. Gunn & Miss K. Bourne

On the 28th of October 2014 we received from the head of legal and democratic services a notice of an Article 4 Direction in relation to Land my wife and I own off of Marl and Puddleslosh lanes.

we should like the council to take into account, our primary concern around such a notice. This is quite simply that of keeping our livestock on and fenced within the boundaries of the land we now own.

Your notice outlines the effect of the direction is to bring Erection, construction, Maintenance, improvement or alteration of a gate, fence wall etc etc. Such that it will require planning permission.

Clearly the concern we have relates to the maintenance and repair of existing fencing, particularly when we have in the past experienced instances of vandalism and 'cutting' of the fences.

Our understanding on the matter is that Article 4 Directions do not affect existing;

- Repair and Maintenance.
- Like for Like Replacement.
- Painting/decorating of existing.

Please can you confirm this position.

Derek Coles.