

# NOTICE OF MEETING

**Meeting:** CABINET

**Date and Time:** WEDNESDAY, 2 NOVEMBER 2022, AT 10.00 AM\*

**Place:** COUNCIL CHAMBER - APPLETREE COURT, BEAULIEU ROAD, LYNDHURST, SO43 7PA

**Enquiries to:** democratic@nfdc.gov.uk  
Tel: 023 8028 5072 - Matt Wisdom

## PUBLIC PARTICIPATION:

Members of the public may watch this meeting live on the [Council's website](#).

\*Members of the public may speak in accordance with the Council's public participation scheme:

- (a) immediately before the meeting starts, on items within the Cabinet's terms of reference which are not on the public agenda; and/or
- (b) on individual items on the public agenda, when the Chairman calls that item. Speeches may not exceed three minutes.

Anyone wishing to speak should contact the name and number shown above no later than 12.00 noon on Friday, 28 October 2022.

Kate Ryan  
Chief Executive

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[www.newforest.gov.uk](http://www.newforest.gov.uk)

**This Agenda is also available on audio tape, in Braille, large print and digital format**

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# AGENDA

## Apologies

### 1. MINUTES

To confirm the minutes of the meeting held on 5 October 2022 as a correct record.

### 2. DECLARATIONS OF INTEREST

To note any declarations of interest made by members in connection with an agenda item. The nature of the interest must also be specified.

Members are asked to discuss any possible interests with Democratic Services

prior to the meeting.

**3. PUBLIC PARTICIPATION**

To note any issues raised during the public participation period.

**4. HOMELESSNESS - PLAN TO DEAL WITH AN INCREASE IN HOMELESSNESS PRESSURES (Pages 3 - 10)**

**5. THE INTRODUCTION OF PUBLIC SPACE PROTECTION ORDERS (Pages 11 - 86)**

**6. UPDATE ON S106 DEVELOPER CONTRIBUTIONS (Pages 87 - 90)**

**7. UPDATE ON COMMUNITY INFRASTRUCTURE LEVY (Pages 91 - 94)**

**8. FINANCIAL MONITORING REPORT (BASED ON PERFORMANCE APRIL TO SEPTEMBER 2022 INCLUSIVE) (Pages 95 - 106)**

To:

**Councillors**

Edward Heron (Chairman)  
Jill Cleary (Vice-Chairman)  
Diane Andrews  
Geoffrey Blunden

**Councillors**

Steve Davies  
Michael Harris  
Jeremy Heron  
David Russell

## HOMELESSNESS - PLAN TO DEAL WITH AN INCREASE IN HOMELESSNESS PRESSURES

### 1. RECOMMENDATIONS

**It is recommended that Cabinet:-**

- 1.1 Approves and recommends to Council a supplementary budget of up to £1.3m for additional homelessness costs for 2022/23.
- 1.2 Approves the recruitment of 2 additional temporary homelessness posts at a maximum of £92,000 inc. on costs per annum.

### 2. INTRODUCTION

- 2.1 Demand for homelessness services and the Council's statutory duties to provide temporary accommodation, particularly for families, have increased significantly over the summer 2022 period. The pressing need for additional accommodation is likely to continue over the coming months resulting in pressures on the annual 2022/23 budget provision for homelessness.
- 2.2 A supplementary budget of up to £1.3m is forecast to cover the anticipated additional costs of procuring Bed and Breakfast and other types of interim accommodation and support, through 2022/23. The increased costs will be kept under close review throughout the remainder of the financial year.
- 2.3 Nationally, the use of temporary accommodation by Local Authorities up to the end of the 2<sup>nd</sup> quarter of the calendar year (30 June 2022), is expected to rise by 25%, when figures are published shortly by the Government.

### 3. BACKGROUND

- 3.1 Over the 12-month period up to 30 September 2022 several key indicators demonstrate increased pressures on the New Forest District Council homelessness service, when compared with the previous 12-month period. The last 6 months has seen significant upward trends in pressures, particularly due to an increase in family homelessness. In early January 2022 there were only 3 families present in Emergency accommodation, but over the summer months this consistently levelled out at around 40 families each month.
- 3.2 Indicators of demand pressures are:
  - 3.2.1 The number of Homeless applications triggered by a threat of, or actual, homelessness has increased 23%.

- 3.2.2 Family homelessness has contributed to the majority of the increase, with the number of families awarded the statutory 'Relief Duty' (The duty on the council to take reasonable steps to secure accommodation for homeless families with a local connection to the New Forest district) is up 23%
- 3.2.3 Single person homelessness has been significantly high since the onset of the Covid Pandemic and has not dissipated since.
- 3.2.4 Homelessness due to the end of a private rented tenancy is up 118%.
- 3.2.5 The number of successful Relief Duty discharges by securing alternative accommodation within the 56-day period has fallen from 111 to only 65 due to a lack of availability of private rented accommodation.
- 3.2.6 There were 249 households accommodated in emergency accommodation in the last 12 months, representing a 35% increase on the previous 12 months.
- 3.2.7 'Main Duty' (The statutory duty to secure accommodation for statutorily priority need and other vulnerable clients, following the end of the Relief Duty) acceptances are 28% higher.
- 3.2.8 114 Families were awarded this main duty, up 40%.
- 3.2.9 The number of families and single people, living in temporary accommodation, and offered suitable Social Housing to discharge the council's main housing duty has fallen 40% and 44% respectively, with only 67 duties to families discharged; due to an increase in vulnerable non-homeless households made live on the register competing for properties.
- 3.2.10 An increase in 'large' families approaching (five x 4+ bed need families in the last 6 months).
- 3.2.11 An increase in approaches to the service due to experiencing domestic abuse.
- 3.3 An increase in family homelessness is largely due to the end of tenancies in the private rented sector. The number of cases in the last 12 months where the tenancy is ending due to:
  - 3.3.1 rent arrears has increased by 87% or,
  - 3.3.2 the landlord selling or re-letting the property has increased by 15%.
- 3.4 The Department for Levelling Up, Communities and Housing (DLUCH) Homelessness Advisor inspected the Council's Homelessness Service in May 2022. The Advisor noted that the number of cases per officer was high at between 50 and 90 cases and highlighted that, in their view, "case management can suffer if an individual officer has over 35 cases". The advisor further noted that "staff were working extra hours to keep up with demand, which was impacting on their morale". Officers work in a stressful and reactive environment; dealing with complex and sometimes distressing housing issues, unplanned homelessness requiring urgent action and demands from individual households to meet their personal requirements on a daily basis.

- 3.5 When caseloads are high officers are not able to invest the time required to always make positive impacts in each case, which can sometimes make the difference between preventing homelessness and becoming homeless, and between moving on quicker from temporary accommodation and staying longer which increases costs.
- 3.6 The number of cases allocated to officers and their ability to carry out in depth work with clients has also been impacted in 2022 by a period of 2 long-term absences and maternity leave.

#### **4. HOMES FOR UKRAINE SCHEME**

- 4.1 Homelessness legislation was amended by the Government earlier this year to allow Ukrainian households entering the country under the Homes for Ukraine Scheme to qualify for public funds and homelessness assistance, in the same way UK nationals can access support. The Government is providing £10,500 in funding per Ukrainian guest residing in the New Forest District to Hampshire County Council. This funding is being apportioned to all districts councils in Hampshire to cover resource and accommodation costs.
- 4.2 A current and experienced Homelessness Officer has been seconded away from the central homelessness service to manage the Homes for Ukraine scheme in the district full time. An Agency member of staff is currently backfilling for this post, funded from the Government funding provided to Hampshire County Council.
- 4.3 In total, there are 422 visa applications which forms 198 households, of which 323 guests have arrived forming 143 households living with hosts in the district, as at 07 October 2022. Many of these households are now approaching the original 6-month accommodation commitment expected of hosts and both parties are looking to the Council for housing solutions.
- 4.4 So far, only 3 Ukrainian households have been placed in temporary accommodation and moved on to other long-term accommodation, but there is a clear steer from many hosts that they will not continue to accommodate guests, long term. Resolving the homelessness of these families as time goes on will place additional resource pressures on the service, but will also mean up to 200 additional households will be competing for a reducing pool of properties in the private rented sector, and potentially temporary accommodation, to resolve their homelessness.

#### **5 PRIVATE RENTED SECTOR**

- 5.1 Private Rented Sector Landlords have informed officers they have been selling in increasing numbers due to their own financial pressures, or have seen neighbouring properties sell for increased sums and they have decided to take advantage of the buoyant market pre-October 2022. Other landlords have decided to let their accommodation through holiday letting sites such as AirBnB. Increasing regulation on the sector to be introduced in coming years is also predicted to have an impact on the number of landlords in the sector. Letting Agents have told us their clients are putting up 6 months of rent in advance to secure properties with them.
- 5.2 The homelessness service has always assisted families leaving private rented tenancies and has achieved a good level of success in rehousing them in alternative private rented sector accommodation. However, the size of the private rented sector in the New Forest is lower than the national average and due to the reasons stated in para. 3.4 above, the supply of accommodation has reduced further over recent

months, whilst landlords and letting agents have a larger pool of prospective tenants to choose from, impacting on our ability to continue to secure properties.

- 5.3 On 20 August 2022, during the period of peak temporary accommodation provision, there were only 18 properties advertised on the Rightmove property website with a monthly rental below £1,400, with July 2022 showing similar levels of supply. Further barriers to securing properties are the requirement for prospective tenants to have good credit histories, at a time of cost-of-living pressures, and guarantors earning at least £30,000. The majority of our clients cannot meet these requirements.
- 5.4 Therefore, to secure private rented accommodation Homelessness Officers are having to significantly increase the financial amounts required to secure accommodation, by providing incentive payments and rent in advance loans of 6 months. For family accommodation this is a significant outlay but is more cost effective than paying for hotel or other such accommodation over a long period.
- 5.5 These constraints have resulted in more households still homeless and in temporary accommodation at the end of their relief duty. Families with children are automatically considered in statutorily priority need along with other vulnerable people, unless they have lost their previous accommodation due to a deliberate act and will be owed the main housing duty as the relief duty expires. Both the Relief and Main duties can only be awarded if the household satisfies a local connection test to the New Forest. The Council can only discharge this main duty through an offer of suitable accommodation in the social housing sector or through a 12-month private rented sector tenancy.

## **6 CURRENT USE OF EMERGENCY ACCOMMODATION**

- 6.1 The number of homeless duty discharges into social housing has fallen due to a natural increase in other vulnerable and non-homelessness households on the housing register competing for social housing.
- 6.2 The knock-on effect of the factors raised previously in this report has been an increased number of single people, and larger numbers of families, accommodated in hotels and other types of interim accommodation, and for longer, at a time of peak cost during the summer months, significantly impacting the homelessness budget.
- 6.3 Homelessness statistics are provided to DLUCH each quarter including the use of B&B hotel accommodation for families. The Homelessness (Suitability of Accommodation) (England) Order 2003 states that Local Authorities should only use such accommodation for families for a maximum of 6 weeks.
- 6.4 The Council's usage of hotel accommodation and its plans to both reduce overall use and minimise the length of stay is scrutinised in monthly meetings with a DLUCH advisor. It is important the Council provides suitable accommodation for all families, with access to cooking and laundry facilities.
- 6.5 As of 07 October 2022, there are 39 families in nightly paid emergency accommodation, of which 7 families reside in hotel accommodation. Others reside in a mixture of holiday rentals and shared housing. 14 of these families have a move on plan in place to move shortly to council owned temporary accommodation, with full access to amenities.
- 6.6 There are currently 30 single people in nightly paid emergency accommodation, of which 17 reside in hotel accommodation. Others reside in a mixture of shared housing

with full access to amenities. 11 of these clients have a move on plan in place to move shortly to council owned temporary accommodation, with full access to amenities.

- 6.7 When forecasting future demand on the service, it is expected that the prolonged cost of living pressures will reach households not traditionally impacted by homelessness. Households currently requesting assistance demonstrate that an increasing number of less vulnerable and working households will shortly begin to approach the Council for assistance, coupled with an upward trend in existing cohorts of demand. In current examples, households who have lived in private rented accommodation for several years without issue have been faced with their first ever threat of homelessness as their landlord is selling the property.
- 6.8 There is also a risk of an increase in mortgage arrears and repossessions given the increase in interest rates, although it is too early to see the impact of housing market pressures just yet.

## **7 ACTION PLAN**

- 7.1 The Housing and Homelessness Service has already instigated a number of actions to tackle increasing homelessness and costs, including the provision of 43 new units of temporary accommodation, which have so far accommodated 87 households since their respective launch. A further 7 new units in Totton to be handed over for letting shortly. The Council's temporary accommodation - largely for single people - is currently at full occupancy.
- 7.2 The Service Manager for Homelessness has drawn up an action plan to tackle existing pressures. Examples of these actions are:
- 7.2.1 Provide temporary cover for the seconded Homes for Ukraine Scheme Officer funded from the Homes for Ukraine Scheme grants.
- 7.2.2 Homelessness Officers will carry out a home visit to each threat of family or friend eviction (currently the 2<sup>nd</sup> highest reason for homelessness) to mediate for an extension of the current living arrangements.
- 7.2.3 Housing Officers are proactively seeking out single person households living in 2 and 3 bedroom council owned housing to ensure they are aware they can be supported to move to smaller accommodation. Where this type of under occupation takes place the majority of tenants receive less benefit toward their rent. Cost of living pressures are now making this situation unaffordable leading to rent arrears. Housing Officers are currently working with 7 households to move to smaller accommodation, freeing up vital family housing.
- 7.2.4 Our Tenancy Account Team for Council tenants are members of both the Council's Cost of Living Steering Group and a New Forest Citizen Advice led multi-agency group ensuring that the most vulnerable households have access to support. The Team have been tasked with publicising the support that can be offered where tenants find it difficult to pay rent and where they are under occupying. This work is being carried out in conjunction with our Information Officers and new public drop-in meetings around the district, starting with Calshot on 13 October 2022.
- 7.2.5 To support the action plan, it is proposed to recruit 2 additional FTEs on a 2-year fixed term basis. The Council's DLUCH Homelessness Advisor highlighted high caseloads and an opportunity for additional resettlement work aimed at assisting

households move on quicker. 2 additional officers will help reduce caseloads for each officer allowing impactful support to households to resolve their threat of homelessness before crisis point. Additional resettlement work will aim to free up much needed Council owned temporary accommodation for new homeless households.

- 7.2.6 The resettlement work will also allow for greater in-depth discussion and negotiation with Letting Agents and landlords to secure properties. Officers are currently seeking views from letting agents on the use of a third-party guarantor scheme funded by the Council, where clients do not have a guarantor.
- 7.2.7 Financial incentives to landlords and loan payments to applicants will need to be raised to better compete for available private rented properties.
- 7.2.8 Officers are proactively bidding for available and suitable social housing on behalf of clients in temporary accommodation. Flats are often considered less desirable than houses and frequently homeless households choose to bid on houses only. Should households not accept an offer of a suitable family sized flat their homeless duty can be discharged and then requested to leave temporary accommodation.
- 7.3 It is also proposed to remodel and refurbish the 7-room single person hostel at Parsonage Barn Lane in Ringwood in 2023 to provide accommodation for 4 families and 1 single person, whilst the Housing Development Team continue to seek out other opportunities for family temporary accommodation. The Housing Development Team continue to explore opportunities to procure accommodation within the New Forest District.
- 7.4 The Council can seek accommodation options outside of the district but as far as reasonably practicable a local authority should secure accommodation in its own area. Where this is not possible it must try to place applicants as close as possible to where they were previously living.
- 7.5 The Supreme Court has stated that the general shortage of available accommodation in the Local Authority's area is not sufficient reason for failing to comply with its obligations to keep people in the district, when making an offer of accommodation. An authority must properly consider the particular circumstances of the applicant and the availability of accommodation before securing accommodation out-of-area. An applicant who is offered accommodation outside the district can seek a review of the decision on grounds of suitability and the review officer must consider the availability of suitable accommodation within or closer to its area, as the facts stand at the date of the review decision
- 7.6 If a local authority has adopted and implements lawful procurement and allocation policies, then its decisions to offer out-of-area accommodation under the terms of such policies would generally be considered lawful and capable of discharging its duties. If accommodation is provided in another authority's area, the local authority in that area must be informed within 14 days.
- 7.7 The Service Accountant for Homelessness will monitor expenditure monthly. EMT will monitor performance regularly against the action plan with further scrutiny applied by Housing and Homelessness Overview and Scrutiny Panel and Corporate Affairs and Local Economy Overview and Scrutiny Panel.



## **8. FINANCIAL IMPLICATIONS**

- 8.1 To fully comply with the Council's statutory homeless duties in 2022/23 the service will require a supplementary budget of up to £1.3m to continue to provide vulnerable families and single person households with access to suitable accommodation and support.
- 8.2 The recruitment of 2 additional FTEs on a 2-year fixed term basis will cost £92,000 per annum. These officers will be utilised to share caseloads and dedicated resettlement work and landlord liaison respectively.
- 8.3 Whilst every effort will be made to reduce costs, the short-term position remains uncertain as the winter period approaches when cost of living pressures will be felt most hardest, as domestic energy use and bills increase, and households will have been affected by prolonged inflationary price rises and economic instability.
- 8.4 However, regular reports will be provided to EMT and scrutiny panels to monitor the impact and demands on the service for 2022/23, and ahead of the budget setting process for 2023/24.

## **9. CRIME & DISORDER IMPLICATIONS**

- 9.1 There is no direct link but there is evidence that homelessness is associated with crime and victimisation, which exacerbates mental health problems and the risk of violence.

## **10. ENVIRONMENTAL IMPLICATIONS**

- 10.1 There are none directly arising.

## **11. EQUALITY & DIVERSITY IMPLICATIONS**

- 11.1 The Homelessness Service provides help and assistance to an increasing number of vulnerable people represented by several protected characteristics. The Council is committed to providing an individual and supportive approach to all of its clients who are experiencing housing, health, welfare and economic difficulties.
- 11.2 Through the request for a supplementary budget, it is expected the service will continue to provide suitable accommodation in the district and meet the needs of vulnerable people and homeless households under the Equality Act 2010 and homelessness legislation.

## **12. PORTFOLIO HOLDER COMMENTS**

- 12.1 I endorse the recommendations in this report.

### **For further information contact:**

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### **Background Papers:**

None

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## THE INTRODUCTION OF PUBLIC SPACE PROTECTION ORDERS

### 1. RECOMMENDATIONS

- 1.1 To approve, in principle, the proposal to make two Public Spaces Protection Orders in respect of the lighting of fires and the use of barbeques, and the feeding and petting of ponies, horses, mules and donkeys in the form set out at Appendix 1 and 2 respectively to this report.
- 1.2 To authorise Officers to publicise the proposed Public Spaces Protection Orders and to carry out consultation as required by the Anti-Social Behaviour Crime and Policing Act 2014 ('the Act') and to report back to Cabinet with the outcome of the consultation.

### 2. INTRODUCTION

- 2.1 This report deals with the proposed introduction of two Public Space Protection Orders ('PSPOs') under the Act to prohibit certain anti-social behaviours, namely the lighting of fires and the use of barbeques ('BBQs'), and the feeding and petting of ponies, horses, mules and donkeys in prescribed areas of the New Forest. A draft of the two proposed PSPOs is attached at Appendix 1 and 2 to this report.
- 2.2 If a PSPO is made, it is a criminal offence for a person, without reasonable excuse, to fail to comply with its requirements. A failure to comply with a PSPO can result in either a Fixed Penalty Notice being issued (maximum penalty of £100) or prosecution through the Magistrates' Court with a maximum fine of £1000.
- 2.3 This report sets out the steps involved in making a PSPO, the legal tests that need to be satisfied and the consultation process to be followed, before any final decision can be made, on the introduction of a PSPO.

### 3. BACKGROUND

- 3.1 For some years now, discussions have been on-going within the New Forest Recreation Management Strategy Steering Group, of which the Council is a member, in respect of the need to deal with certain anti-social behaviours within the Forest, by members of the public.
- 3.2 The range of behaviours that have been discussed by the Council and its partners is varied and significant in number; they include the parking of vehicles on verges within the Forest, out of control dogs, wild camping, wildfires and the use of BBQs, and the feeding and petting of roaming animals.
- 3.3 Partners have requested the Council to consider utilising its powers under the Act to restrict certain behaviours which have a detrimental effect on the quality of life of those in the locality, through the making of a PSPO.

- 3.4 Over the last 6 months, senior Officers of the Council have been working with partners, including representatives from the National Park Authority, Forestry England ('FE'), the Verderers, Hampshire County Council and the Police, to explore the types of activities that might be appropriate for including in a PSPO.
- 3.5 The process involved in considering the introduction of a PSPO requires there to be an evidence base to demonstrate the extent of the problem, including being satisfied of the detrimental impacts on the local community arising from the anti-social behaviours.
- 3.6 Whilst a number of activities are still the subject of on-going discussions with partners, it is considered that sufficient evidence is in existence at the present time to progress the activity relating to the lighting of fires and the use of BBQs and the feeding and petting of animals within the Forest. Any proposal to make a PSPO will be subject to statutory consultation, with a final decision on whether to proceed only being taken following a review of the responses to that consultation.
- 3.7 PSPOs are orders which prohibit certain things or impose requirements in order to prevent detrimental effects on communities. There are strict legal tests that have to apply before a PSPO can be made. Further information on the legal tests for a PSPO is set out at section 4 below.
- 3.8 Section 5 of this reports sets out the evidence base and justification for a PSPO to cover the activities relating to the lighting of fires and the use of BBQs as well as the feeding and petting of ponies, horses, mules and donkeys.

#### **4. ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014 (THE ACT) – THE LAW AND THE LEGAL TESTS FOR THE MAKING OF A PSPO**

- 4.1 Section 59 of the Act gives the Council the power to make a PSPO. These orders are intended to deal with a nuisance or problems in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of the area. They are designed to ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.
- 4.2 The definition of public space is wide and includes any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.
- 4.3 The purpose of a PSPO is to stop individuals or groups committing anti-social behaviour in a public place. Councils can make a single PSPO or multiple PSPOs, if the evidence base exists to demonstrate the legal tests are met. PSPOs can have a duration of a maximum of 3 years and can be extended.
- 4.4 The legal tests that have to be satisfied focus on the impact that anti-social behaviour is having on communities. A PSPO can be made by the Council if it is satisfied on reasonable grounds that two conditions are met. The first condition is that:-
  - (a) the activities carried on in a public place within the Council's area have had a detrimental effect on the quality of life of those in the locality, or
  - (b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.

The second condition is that the effect, or likely effect, of the activities:-

- (a) is, or is likely to be, of a persistent or continuing nature,
- (b) is, or is likely to be, such as to make the activities unreasonable, and
- (c) justifies the restrictions imposed by the notice.

4.5 A PSPO is an order that identifies the public space and

- (a) prohibits specified things being done in that public space,
- (b) requires specified things to be done by persons carrying on specified activities in that place, or
- (c) does both of those things.

4.6 The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order to prevent or reduce the risk of the detrimental effect continuing, occurring or recurring.

4.7 Local Government Association Guidance accompanying the legislation states that *“Used proportionately and in the right circumstances, PSPOs allow local areas to counter unreasonable and persistent behaviour that affects the quality of life of its residents. They can send a clear message that certain behaviours will not be tolerated, and help reassure residents that unreasonable conduct is being addressed. However, PSPOs will not be suitable or effective in all circumstances, and it is important to consider carefully the right approach for identifying and addressing the problem behaviour”*. Guidance also states that *“PSPOs should be used responsibly and proportionately only in response to issues that cause anti-social behaviour and only where necessary to protect the public”*.

4.8 In deciding whether to make a PSPO and if so, what it should include, the Council must have particular regard to the rights for freedom of expression and freedom of assembly set out in articles 10 and 11 of the European Convention on Human Rights. It will also be necessary for the Council to consider the proportionality of any proposed restrictions to the specific harm or nuisance that is being caused.

## **5. ACTIVITIES WITHIN SCOPE FOR A PSPO AND EVIDENCE**

### **5.1 Wildfires and BBQs**

5.1.1 The proposed form of the PSPO covering this activity is set out at Appendix 1 and is referred to as The New Forest Public Spaces Protection Order 2022 (No.1) (‘PSPO No 1’). It deals with the lighting of fires and the use of BBQs in certain parts of the Forest. It proposes a specific prohibition on the following activities in the Restricted Area\*:-

- (a) placing, throwing or dropping items likely to cause a fire;
- (b) lighting fires (of any type) or BBQs (including disposable BBQs and any outdoor temporary cooking facilities or equipment);

- (c) using items which either (i) cause a naked flame or (ii) pose a risk of fire.

\*References to the 'Restricted Area' for the purposes of proposed PSPO No 1 means any public space within the land shown outlined and hatched in blue on the maps accompanying Schedule 1 to that proposed PSPO at Appendix 1. This principally covers all land managed and controlled by FE and roads within this area, this being land that is open to the air and to which the public are entitled or permitted to have access.

- 5.1.2 There is a requirement within the proposed PSPO No 1 for any person (within the Restricted Area) who has an item(s), which a constable or authorised person has reasonable grounds to believe has been, is being, or is likely to be used in connection with the prohibited activities, to extinguish and /or surrender the item(s) to the constable or authorised person, on request. There is also a requirement that if a person has acted contrary to the PSPO, they shall terminate their activities.
- 5.1.3 There is an exception contained within proposed PSPO No 1 relating **ONLY** to FE owned campsites at Aldridge Hill, Ashurst, Denny Wood, Hollands Wood, Holmsley, Longbeech, Matley, Ocknell, Roundhill, and Setthorns shown outlined and hatched red on the maps accompanying Schedule 1 to that proposed PSPO), where BBQs and stoves that are purpose built and raised off the ground, can be used. These campsites are managed and patrolled areas and have a series of fire measures in place including metal containers for hot coals to ensure their correct and safe disposal, water points and fire-fighting equipment, and regular patrols by campsite staff.

#### **Evidence base for wildfires/BBQs**

- 5.1.4 Despite a series of high profile campaigns in and around the Forest about the dangers of fires on the open Forest, including an operational ban on disposable BBQs on FE land in 2020, significant numbers of incidents caused by BBQs and campfires, continue to be recorded by FE, New Forest National Park Authority ('NPA') and Hampshire and Isle of Wight Fire and Rescue Service ('HIWFRS').
- 5.1.5 The Council has been provided with statements from FE, the NPA and HIWFRS about the incidents caused by fires and the use of BBQ in recent years. A summary of the evidence is set out below. The full evidence submitted by Partners in support of this activity can be found at the following link:

[www.newforest.gov.uk/PublicSpaceProtectionOrders](http://www.newforest.gov.uk/PublicSpaceProtectionOrders)

- 5.1.6 FE's Recreation Programme and Duty Manager, has produced a statement explaining the increase in numbers of direct contacts being made to FE, by members of the public about groups of visitors setting up campfires and using BBQs on their land. In his statement, the Duty Manager states: *'I have personally attended some of these incidents and had to extinguish campfires that had burnt into the ground whilst the occupants of the wild camp sat and watched me'*. He states that incidents of visitors having BBQs and setting up campfires on the FE land is *'happening continuously and repeatedly'*. This is despite recent campaigns and a ban on BBQs. He explains that there are reports of members of the public refusing requests not to light BBQs, in the presence of Rangers. During the weekend of 6/7 August 2022, he explains that FE dealt with 7 significant fires in the Forest that were a result of discarded BBQs and campfires, and during the 7 day period between 1 and 8 August

2022, he spent 29 hours over and above his regular 37 hour week dealing with unauthorised campfires, BBQs and resulting wildfires.

- 5.1.7 FE have produced evidence setting out approximately 140 campsite and BBQ recorded incidents between August 2020 and August 2022 (recorded during normal working hours) and approximately 150 'out of hours' incidents, from the end of July 2020 to end of August 2022. Whilst not all these incidents resulted in wildfires, it demonstrates the extent of the problem associated with members of the public setting up campfires and using BBQs, which have the potential to cause significant damage and threat to life. From the evidence provided, it is clear that Forest staff often have to intervene to ensure that smouldering campfires and BBQs are fully extinguished. The Duty Manager states that *'Seldom do wildfires start by lightning strikes or discarded glass in the UK. In the New Forest in my considerable experience in this subject all our wildfires excepting those caused deliberately by arson are caused in some way by BBQs and campfires'*. Photographic evidence of fires and their aftermath have been provided by the FE and these can be observed in the link referred to in paragraph 5.1.5.
- 5.1.8 The FE's Duty Manager also explains in his statement the impact that fires have on the Forest and the organisations that have to deal with them. He states that staff, local volunteers and the Fire Service, are often called out during evenings and weekends to deal with fires, often putting themselves at risk. He cites that during the weekend of 6/7 August 2022, the wildfires that occurred took repeated visits to fully extinguish them with one area of the Forest, approximately a hectare in size, taking 9 Fire Service appliances, 2 FE tractor tankers, and 2 FE small fire appliances to deal with that fire over a 20 hour period and, even then, follow up visits were required by HIWFRS and FE staff to damp the fire down again the following Monday morning.
- 5.1.9 A statement has also been received from FE's Community Manager who is responsible for managing the New Forest Recreation Ranger team and Volunteer Service. She explains that the fire related devices used by members of the public on the Forest *'range from a small disposable BBQ on the ground, to a full sized hog roast, firepits, open campfires directly on the ground burning wood from the Forest and eating into the forest floor, causing lasting environmental damage'*. She explains that often FE and other Forest staff are required to put out smouldering BBQs which are left by members of the public and that staff are met with abuse sometimes when they try and talk to those using these devices about the dangers that can result.
- 5.1.10 The Community Manager cites a specific example of a wildfire starting over the weekend of 6/7 August 2022 in the inclosures between Hollands Wood and Denny Wood campsites. This is an area of woodland. She explains that the fire was initially hard to pinpoint and therefore went unnoticed for some time. When it was eventually located and the emergency services were called, a significant area of the Forest was alight. A water carrier was required to be brought in from Bordon (over an hour away) and significant HIWFRS resources were spent putting the fire out. A team of Rangers had to remain in situ overnight as well as the following day, to ensure it did not reignite. She also explains that there were further incidents that same following day in the Fawley Inclosure and separately, in Burley, resulting in Forest staff managing, along with HIWFRS, 3 concurrent fires. She explains how Forest staff resources were severely stretched and tested during this challenging time.
- 5.1.11 The Community Manager explains another incident on 11 August 2022 when she saw smoke coming from a location between Kings Hat and Dibden Inclosures. She and HIWFRS attended, where it was discovered that a smouldering deserted campfire, within a copse of trees, had set an area of heathland alight. She explains

that had this not been detected at a relatively early stage, it could have spread to the Inclosure, which was a great concern. The Community Manager also explains the impact on staff who are on 'high alert' and 'dread the sight and smell of smoke'. She says in her statement that *'It isn't something that can be ignored, the risk of not responding and a large fire breaking out is too much for anybody to accept and so often there will be staff working all hours of the day and night to try and avoid such a situation; proactively patrolling for lunchtime BBQs, responding to tea-time BBQs, patrolling known problem areas out of hours, attempting to track down wild campers late into the evening when vehicles are spotted in car parks after dusk; investigating reports early morning from dawn dog walkers, or returning to previous fire sites multiple times to ensure there is no chance of reignition'*.

5.1.12 The Community Manager summarises the impacts that increasing numbers of wildfires are having, as follows:-

- Forest staff are being pushed to their limits dealing with these incidents
- Core business is affected, with so much resource tied up on wildfires, there are difficulties delivering normal work programmes
- Lasting damage to fragile habitats and ecosystems with negative implications for wildlife
- Community anxiety concerning the threat to life and properties

5.1.13 The Community Manager explains the steps that forest organisations have taken in recent years to try and curb members of the public starting fires and using BBQs. She says that whilst public campaigns and the increase in signage warning of the dangers has helped to reduce the number of incidents, *'it is astounding that there are still people using BBQs or having campfires, some in blatant view of signage and despite engagement from officials.'* She also makes the point that visitor patterns have also changed with more sustained levels of visitors to the Forest throughout the whole year, rather than just at peak time.

5.1.14 There is also a statement from the NPA's Lead Ranger who explains the problems associated with campfires and BBQs on the Crown Lands. On one day alone during 2020, she explains that Rangers and other New Forest staff had to deal with 50 BBQ and campfire incidents. She states that *'One of the impacts of climate change on the New Forest is hotter, drier summers - as experienced this year with successive heatwaves and an extraordinary dry spell. The risk of a wildfire is at all time high and just one discarded bbq or abandoned campfire could have devastating impacts, putting people and their livelihoods at risk'*. She explains that *'all the NPA rangers come across sites where disposable BBQs or campfires have been used and abandoned posing huge fire risks and a danger to livestock and the public'*.

5.1.15 The Lead Ranger states that *'It is no longer enough to simply rely on educational and awareness raising campaigns to tackle the threat of wildfires and inappropriate interactions with Forest livestock. We need greater sanctions to tackle these persistent antisocial behaviours on the open Forest and that is why the National Park Authority supports the New Forest District Council in making a Public Space Protection Order'*.

5.1.16 HIWFRS have also submitted a letter of support of a PSPO dealing with open fires and the use of BBQs in the Forest. They state *'Every year HIWFRS responds to a significant number of wildfires in the New Forest District Council area. There is*



*evidence that a significant number of these are caused by either open fires or disposable BBQs. This year has seen a dramatic rise in the number and seriousness of rural fires attended, due to a combination of factors, including the changing climate.’ They also add that ‘HIWFRS fully support the concept of a PSPO restricting the use of BBQs and open fires. Whilst we do not wish to encroach on the enjoyment of people who visit the New Forest, our current level of activity to incidents in the open is not sustainable’.*

5.1.17 The evidence relating to lighting of fires and the use of BBQs, summarised above, sets out the detrimental effects that this activity has caused, and continues to cause, to the community, both in terms of the dangers to the public through the increased threat of fire, but also to those organisations and staff who play a lead role in dealing with the fires and the threat of such fires. It is considered that the effects of these activities are persistent and are such to make the activities unreasonable. It is also considered that the proposed restrictions and requirements within PSPO No 1 (noting the exception relating to purpose built BBQs raised off the ground on the named campsites referred to therein), are reasonable and proportionate to the harm that has been identified. Senior Officers of the Council consider that the legal tests are met in respect of this activity and recommend that the matter progresses to public consultation stage to enable landowners, occupiers, wider community representatives and the Police, to give their views.

## 5.2 Feeding and petting of Forest animals

5.2.1 The proposed form of the PSPO covering this activity is set out at Appendix 2 and is referred to as The New Forest Public Spaces Protection Order 2022 (No.2) (‘PSPO No 2’). It deals with the feeding and petting of ponies, horses, mules and donkeys. It proposes a specific prohibition on the following activities in the Restricted Area\*:-

(a) feeding or providing or depositing food for consumption by any New Forest Pony, Horse, Mule or Donkey; or

(b) petting or touching any New Forest Pony, Horse, Mule or Donkey.

5.2.2 \*References to the ‘Restricted Area’ for the purposes of proposed PSPO No 2 means any public space within the land shown outlined and hatched in blue on the maps accompanying Schedule 1 to that proposed PSPO at Appendix 2. This comprises land within the Perambulation of the New Forest, that is open to the air and to which the public are entitled or permitted to have access.

5.2.3 There is a requirement within the proposed PSPO No 2 for any person (within the Restricted Area) who has an item, which a constable or authorised person has reasonable grounds to believe has been, is being, or is likely to be used in connection with the prohibited activities, to surrender the item to the constable or authorised person, on request.

5.2.4 There is also a requirement that if a person has acted contrary to the PSPO, they shall terminate their activities.

5.2.5 There is an exception contained within proposed PSPO No 2 that states that the prohibition and requirements outlined above will not apply to any person who is a New Forest Commoner and owner of a New Forest Pony, Horse, Mule or Donkey, or their duly authorised servant or agent or an agister.

### 5.3 Evidence base relating to the feeding and petting of Forest animals

- 5.3.1 Over the years, the dangers associated with members of the public feeding and petting roaming Forest animals, have been well documented, publicised and the subject of numerous high profile campaigns, all with the aim of discouraging such behaviour. It is evident from the evidence produced by partners that such behaviour continues on a large scale.
- 5.3.2 Partners including FE, NPA, the Verderers and the New Forest Association have produced significant evidence to demonstrate the scale of the problem that is associated with the feeding and petting of Forest animals, particularly ponies and donkeys and the detrimental effects to the community that this is causing. A summary of the evidence is set out below. The full evidence received by the Council, in support of this activity, is contained within the following link:

[www.newforest.gov.uk/PublicSpaceProtectionOrders](http://www.newforest.gov.uk/PublicSpaceProtectionOrders)

- 5.3.3 The Head Agister has produced a statement which provides valuable background information as to how animals come to pasture on the Forest and the role of the Agisters, both in dealing with commoners and interested groups in the local community. The statement also explains the harm and danger caused to both members of the public and the animals, when humans feed them. The Head Agister explains that in feeding Forest animals, they learn to associate humans with food and as a result, will approach members of the public, including children, and ask for food. He states that *'Unfortunately, ponies can and do get aggressive around food. This leads to competition between the ponies, including kicking and biting, and that aggression can and often is directed at members of the public. As a result, members of the public get knocked over, bitten and even kicked. A direct result of humans feeding the ponies is therefore danger to members of the public.'*
- 5.3.4 In his statement, the Head Agister also explains the problems for the animals, if fed by members of the public. They can lose their ability to survive on the Forest and become dependent on human food, which can be extremely detrimental for them. He states *'Feeding of the ponies can harm the ponies in other ways. Members of the public often carry food in plastic bags which if ingested by a pony can cause choking. People quite often dump windfall apples on the Forest, mistakenly believing that they are of benefit to the ponies. On the contrary, apples can not only cause choking but also, if they eat too many, colic which can be fatal to ponies. Carrots can also cause choking. Grass cuttings pose a particular danger. When eaten they ferment in the stomach of the animal, creating gas and that can sometimes lead to a ruptured stomach. Dumping of hedge clippings from gardens can contain material such as yew that is poisonous. Any of these activities can result in a large vet's bill for the Commoner and in some cases loss of the animal altogether. Feeding the animals is therefore harmful both to the welfare of the animal and its owner.'*
- 5.3.5 The Head Agister also states that *'When a pony involved in an incident can be identified, all the circumstances of the incident are taken into consideration. If there are any safety concerns in relation to members of the public, the Agisters will inform the owner and the Verderers, who have the power to insist the animal is removed from the Forest, or moved away from a specific area. It can sometimes be difficult to balance the ancient right of the Commoner to graze their ponies in the Forest, against the safety of the public. Ponies may have to be moved if they go into tents on*

*open campsites as a result of visitors not keeping their food secure. However, ponies are permanently removed from the Forest if they pose a danger to the public because they have learned to be aggressive. Once permanently removed from the Forest, ponies face an uncertain future as they are not riding ponies- they are semi feral accustomed to living on the Forest’.*

- 5.3.6 The Head Agister also explains that feeding the ponies encourages them to hang around the roads and car parks, as many visitors do not stray far from these areas. He further states that *‘As many of the Forest roads are unfenced this increases the likelihood of a pony being injured or killed by a motor vehicle. This is of course a tragedy both for the animal itself and the owner. For example, in 2021, 44 animals were killed and 15 injured in road accidents.’*
- 5.3.7 Two logs have been received from the Verderers Office which set out information, including recorded feeding and petting incidents during 2020, 2021 and 2022. For the purposes of the particular activities which are the subject of PSPO No. 2, the Council has relied on only those incidents relating to public feeding and interaction with stock as supporting evidence, and not incidents relating to dogs.
- 5.3.8 There is also a report from Dr Jo Ivey, a veterinary surgeon on *‘Interactions between the public and depasturised stock in the New Forest in 2018’*. This was commissioned by the New Forest Association. Whilst that report, in part, deals with the interactions between dogs and roaming animals, it also provides evidence that feeding and petting of animals causes them to become over- familiar and aggressive towards humans. Dr Ivey’s report looks at reported incidents across campsites, information from Rangers and the Verderers. It sets out descriptions of incidents involving human interaction with ponies, with numerous examples of ponies raiding campsites and tents, stealing food, including where members of the public have been injured or ‘near misses’ have occurred. In one example, Dr Ivey’s report records a report from a Ranger relating to Boltons Bench which states *‘20-30 incidents of pony and donkey petting/close photography within sight of middle car park. In many cases the animals were over- friendly and approached people first. Saw one incident of possible pony aggression (it turned away with ears back as if to kick). Almost all of the people were spoken to and given leaflets, but in a few cases, they had moved on before I could reach them. Many said they thought it was ok to stroke the animals but would not feed them’.*
- 5.3.9 Evidence has also been provided by the NPA’s Lead Ranger relating to the activity of feeding and petting animals. In her statement, she states *‘In the last two years, all three Area Rangers have reported having to speak to people about livestock feeding and petting on a daily basis across all areas of the New Forest. Some additional hotspots such as Bolton’s Bench are known to have persistent issues, despite new and prominent signage around the site. A one hour visit to Bolton’s Bench during the 2020 Easter holidays saw 37 petting incidents on the site including one lady being bitten whilst trying to feed a pony crisps. My team have all had times when members of the public have been asked to keep their distance from the livestock but their requests have been ignored and people have persisted or waited until they believed rangers were out of sight and continued.’* The Lead Ranger also states *‘Furthermore, this constant feeding and petting of ponies is already leading ponies to adopt some ‘learned behaviours’ by closely associating visitors with food. It is increasingly common to see ponies congregating around parked cars, harassing and ‘begging’ the car’s occupants for food. Not only is this bad for the ponies and the future of commoning in the New Forest, it spoils people’s enjoyment of the areas and in a few cases, people can feel quite intimidated’.* Examples of 119 feeding and petting

incidents recorded by the NPA Ranger Team over a 6 month period in 2021 has been provided to the Council.

- 5.3.10 FE's Community Manager has also produced a statement in support of the proposed PSPO No 2 covering the feeding and petting of ponies. In it, she describes livestock petting and feeding as *'widespread across the Crown Lands'* and that *'it happens so frequently it is impossible to report every instance of this type of activity. We also get calls from concerned members of the public reporting petting and feeding and frequent calls for action from partner agencies, local communities and stakeholders'*.
- 5.3.11 The Community Manager, whilst explaining the risks to the animals through eating inappropriate food, which can cause choking, also sets out the dangers to people in that the animals then pursue people or raid their bags in the hope of finding food. She states that *'I have witnessed several incidents where people or dogs are injured as a result of this, and many more whereby people have had their belongings thrashed and picnics eaten.'* She also explains the impact on Forest staff *'who explain and educate to the best of our abilities but some people refuse to listen and believe it is their right to come to the New Forest to see, touch and feed the animals..... It frequently is mentioned at Verderers Court due to the impact on the local Commoning community as their animals may become sick, or die, as a result of these activities. This directly impacts their way of life and heritage and is something many people are very passionate about. There is also the impact on people in terms of their safety, there have of course been incidents where people have been kicked or bitten and this can potentially lead to serious lasting injuries or in the worst case fatality'*.
- 5.3.12 FE have produced data in respect of recorded incidents of feeding and petting of animals during 2021 and 2022. Some of the examples included in this data relate to dogs, which are not relevant for the purposes of PSPO No.2. These can be observed in the link referred to in paragraph 5.3.2 above.
- 5.3.13 There are also a number of statements from Commoners in support of the proposed PSPO relating to the feeding and petting of ponies, horses, donkeys and mules. One of these statements gives details of an incident on 14 November 2020 in which a Commoner's mare, which had become trapped by an open car door, *'jumps it .. and becomes straddled at her stifle and lands across the bonnet, breaking the window seal, the door mirror and denting the bonnet'*. It would appear that there was food inside the car which the mare was attempting to get at. The Commoner, whose mare was involved in this incident, commented *'Changes to our mare's behaviour as a consequence of public interaction is depressing and has negative consequences for our commoning practises.'*
- 5.3.14 Officers have carefully assessed all the evidence in respect of the activity relating to the feeding and petting of ponies, horses, donkeys and mules. The evidence gives a clear picture of the detrimental effect on the quality of life of the local community, arising from this activity. There is evidence that the feeding of ponies teaches them to associate humans with food, causing the animals to become overfamiliar and aggressive if they don't get what they want. There is evidence demonstrating the dangers to the public, including incidents which have resulted in injuries, as well as damage to people's goods and belongings. There is also the detriment to the local Commoners' quality of life. Not only do they suffer financially if their animals are injured or killed (through the carrying on of this activity), they also suffer distress if their animals are harmed.

5.3.15 It is clear from the evidence that the activities relating to the feeding and petting of ponies, horses, donkeys and mules has a detrimental effect on the quality of life of those in the area and that the effect of these activities is persistent and, due to the harm that is being caused, it is considered that these activities are unreasonable. It is also considered that the proposed restrictions and requirements within the proposed PSPO No 2 (noting the exception relating to the ability for commoners, their agents and an agister to carry out the restricted activities referred to in the proposed PSPO No 2) are reasonable and proportionate to the harm that has been identified. Senior Officers of the Council consider that the legal tests are met in respect of this activity and recommend that the matter progresses to public consultation stage to enable landowners, occupiers, wider community representatives and the Police to give their views.

## **6. PROCESS FOR INTRODUCING A PSPO**

6.1 Before making an Order, the Council is legally obliged to carry out statutory consultation, publicity and notification in accordance with Section 72(3) of the Act. The following bodies are required to be consulted before the making of an order:-

- The local Chief Officer of Police, and the local policing body for the area that includes the Restricted Area (this will include the Police and Crime Commissioner). For both PSPO No 1 and PSPO No 2, this will involve consulting with Hampshire Constabulary.
- Owners and occupiers of land within the Restricted Area, the subject of the PSPO (this applies only if, or to the extent that, it is reasonably practicable to consult the owner or occupier of the land).
- Community representatives that the local authority thinks it appropriate to consult.

6.2 With regards to the community representatives category, it is proposed that the following are consulted in relation to both PSPO No 1 and PSPO No 2:-

- Safer New Forest Partnership
- Scouts New Forest
- Head Teachers' Forum (secondary schools including colleges)
- Head Teachers' Forum (primary schools)
- The Verderers
- Commoners' Defence Association
- National Park Authority
- Royal Society for the Protection of Birds
- Campaign for National Parks Charity
- Hampshire and IOW Wildlife Trust
- Go New Forest Community Interest Company
- New Forest Association
- Town and Parish Councils
- Hampshire County Council
- Open Spaces Society
- The Ramblers
- The Camping and Caravanning Club
- The Caravan and Motorhome Club
- The New Forest Dog Owners' Club
- Health and Wellbeing Board

- New Forest Access Forum
- New Forest Equestrian Association
- Community First
- Girl Guiding Hampshire West
- National Trust
- The Duke of Edinburgh Award Scheme

- 6.3 If Members consider that others should be added to this list, arrangements can be made in this regard.
- 6.4 With regard to consulting owners and occupiers within the Restricted Areas, it has to be recognised that the proposed two PSPOs, particularly PSPO No 2, cover a wide geographical area of the Forest. The areas covered, particularly by PSPO No 2, which has the Perambulation as the Restricted Area, will have a significant number of people who fall within the category of *'owner and occupier of land within the Restricted Area'*. There is only a requirement to consult with owners and occupiers of land when it is reasonably practicable to do so. It is not considered reasonably practicable to consult each and every landowner and occupier of land covered by both PSPO No 1 and No 2. However, the Council will consult the following specific bodies for both: FE, Hampshire County Council, as Highway Authority and the Highways Agency.
- 6.5 To ensure that as many people as possible, falling within this category, become aware of the proposed PSPOs, the Council will publish a press notice in two newspapers circulating in the District, for 2 consecutive weeks. This is in addition to the proposed orders being published on the Council's website which meets the 'necessary publicity' requirements of the legislation.
- 6.6 In addition to the above, the statutory Home Office guidance accompanying the legislation, states that Councils should consider a wider consultation if land subject to a proposed PSPO, includes registered common land, town or village greens or open access land. As the land the subject of the 2 proposed PSPOs will include land falling within these categories, it will be appropriate to consult bodies such as the New Forest Access Forum, the British Horse Society and Ramblers (the latter being included already, in the list set out at paragraph 6.2 above). The Council will work closely with FE to identify any further appropriate bodies to consult in light of the particular designations that cover the land the subject of the two proposed PSPOs.
- 6.7 It is proposed that the Consultation will involve a questionnaire for those wishing to respond. This will be available as an electronic questionnaire and there will be an option for paper copies also to be completed. The two proposed PSPOs will also be published on the Council's website for the benefit of the wider public, with a link to the questionnaire. It is proposed that the Consultation will run for a period of 6 weeks.
- 6.8 The consultation is an extremely important part of the process and the Council will only be in a position to decide whether to proceed to make the PSPOs, following that consultation process.
- 6.9 It is expected that a report will be brought back to Cabinet with the outcome of the Consultation in Spring 2023.
- 6.10 Under the legislation, there are additional requirements to ensure that the *'necessary notification'* is carried out before making an order and the legislation cites 2 bodies that require such notification; namely parish or community councils for the area that includes the Restricted Area, and the County Council. It is intended, in any event,

that all Town and Parish Councils in the District, and Hampshire County Council, will be formally consulted on the proposed PSPOs, as set out in paragraph 6.2 and 6.4 above.

## **7. ENFORCING THE PSPO**

7.1 It is an offence under the Act to, without reasonable excuse, breach the terms of a PSPO. This can result in the following formal action:-

- Prosecution in the Magistrates' Court with a maximum fine of £1000; or
- The issuing of a Fixed Penalty Notice with a maximum penalty of £100.

7.2 Under the Act, a Police Officer or an authorised person (so authorised by the Council) may issue a Fixed Penalty Notice to anyone whom they believe has breached the terms of the PSPO.

7.3 A Fixed Penalty Notice is a notice offering the person to whom it is issued the opportunity of discharging any criminal liability for the offence by payment of a fixed penalty to the Council. If the fixed penalty is paid, no prosecution proceedings can be taken. However, if it is not paid, prosecution proceedings may follow.

7.4 Under the Act, there are particular rules to follow when issuing a Fixed Penalty Notice.

7.5 Discussions have taken place with partners as to the role they will play in assisting the Council discharging its functions in respect of the two proposed PSPOs. It is considered that if either of the PSPOs is made, the Council would look to partners to enforce the PSPO on its behalf as those partners have a range of existing resources, such as Rangers, who are present in and around the Forest ensuring its good management. Discussions are on-going at present and further information about the enforcement of the PSPOs will be brought before Cabinet when it considers the outcome of the Consultation exercise.

## **8. OTHER LEGAL IMPLICATIONS**

### **8.1 Legal Challenge**

8.1.1 Under section 66 of the Act an interested person, which is someone who lives in the area covered by the PSPO or who regularly works in or visits that area, may apply to the High Court to challenge the validity of a PSPO.

8.1.2 An interested person who wishes to challenge a PSPO must make an application to the High Court within 6 weeks of a PSPO being made by a local authority.

8.1.3 The grounds on which an application may be made are:-

- a) that the authority did not have power to make an order, or to include particular prohibitions or requirements imposed by the order;
- b) that a requirement in the process of the making of an order was not complied with.

8.1.4 The High Court can uphold, quash or vary the PSPO and may decide to suspend the operation of a PSPO pending the verdict. Additionally, as with all decisions, the making of a PSPO can be challenged by judicial review by any other person on public law grounds within three months of the decision or action subject to challenge.

## 8.2 **Convention rights**

8.2.1 In deciding whether to make a PSPO and what to include in any such PSPO, the Council must have regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms. In respect of proposed PSPO No 1 and PSPO No 2, it is not considered, that these rights are engaged.

## 8.3 **Byelaws**

8.3.1 In accordance with section 70 of the Act, a byelaw that prohibits, by the creation of an offence, an activity regulated by a PSPO is of no effect in relation to the relevant Restricted Area during the currency of that PSPO.

8.3.2 For the purposes the proposed PSPOs, this will mean that, if either are brought into force, the following will not apply to the respective Restricted Areas for the time that they are in force:

- byelaw 5. iv of the Forestry Commission Byelaws SI 1982 No 648 (PSPO No 1)
- byelaw 16 (1) of the New Forest (Confirmation of the Byelaws of the Verderers of the New Forest) Order 2010 SI 2010 No 993 (PSPO No 2)

## 9 **FINANCIAL IMPLICATIONS**

9.1 The making of the two proposed PSPOs will have some financial implications for the Council. At this stage, where the Council is agreeing, in principle, to make the PSPOs, subject to public consultation, it will be necessary to agree a budget for the consultation exercise. In addition to using existing in-house resources for this purpose, it is intended to employ the services of an external consultation and analysis expert, who will provide support for the consultation process. It is proposed that costs of £15,000 are set aside for the consultation process.

9.2 If the Council decide, following the consultation process, to proceed with the making of the PSPOs, then further costs are likely to arise associated with administering the PSPOs as well as enforcing them; these costs would be off set from any payments received from the Fixed Penalty Notice process or costs, following a successful prosecution for breaches of the Orders. The Council is in discussions with relevant partners who have indicated, in principle, that they will take a lead role in enforcing the PSPOs.

9.3 If the decision is made to proceed with making the PSPOs, after consideration of the consultation results, the Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 ('the Regulations') made under the Act require the Council to erect suitable signage on or adjacent to the applicable Restricted Areas to draw attention to the fact that a PSPO has been made and its effect. As the size of the areas covered by the proposed PSPOs is large, this will require multiple signs of sufficient quality to make them weatherproof. Similarly, there is a requirement under the Regulations that where a PSPO is



discharged similar signage must be erected identifying that it has been discharged and the date it ceases to have effect. Officers will work with partners regarding the number of signs required, locations and costs involved.

- 9.4 Further details about the arrangements for enforcement of the PSPOs and signage will be brought before Cabinet when it considers the results of the consultation exercise.

## **10. ENVIRONMENTAL IMPLICATIONS**

- 10.1 PSPO No 1 relating to wildfires and BBQs, if made, would have positive environmental implications, through a reduction in carbon dioxide and other pollutants into the atmosphere, which have an impact on climate change. Additionally, taking measures to prevent fires will help preserve the natural habitat and longevity of the woods, forests and heathlands within the Forest, all of which will have positive effects in terms of climate change.
- 10.2 PSPO No 2 relating to the feeding and petting of Forest animals, if made, will have positive implications for the Forest; Commoners' animals are less likely to suffer illness or death through being fed the wrong food stuffs, which could have an impact on the biodiversity (the variety of natural life) of the Forest, which is one of the most valuable areas for wildlife in Europe. Historic land uses such as commoning has shaped the Forest landscape over many centuries and human activity can interfere with these important practices, to the detriment of the Forest, as a whole. If the activities that PSPO No 2 seeks to address continue, this could lead to a threat to the viability of commoning in the Forest and the withdrawal of these animals, which could have significant environmental implications for the future of the Forest. Additionally, commoners often have to deal with sick animals, which have been fed inappropriate foods by humans, instead of relying on their natural habitat for food and ultimately, animals can lose their ability to survive on the Forest as a result of these feeding activities.

## **11. CRIME AND DISORDER IMPLICATIONS**

- 11.1 Anyone breaching the terms of the PSPOs, without reasonable excuse, will be committing a criminal offence, punishable by prosecution with a maximum fine of £1000, or by the issue of a Fixed Penalty Notice, with a maximum penalty of £100.
- 11.2 It is expected that by including the activities set out in this report within the proposed PSPOs, there will be a reduction in the anti-social behaviour associated with wildfires and the use of BBQs on the Forest and the feeding and petting of Forest animals, all of which are detrimental to the local community, as set out in this report.

## **12. EQUALITY AND DIVERSITY IMPLICATIONS**

- 12.1 The impact that the proposed PSPOs have on the community, as well as those with protected characteristics under the Equality Act 2010, have been carefully considered. The Council has also had due regard to the Public Sector Equality Duty as set out in section 149 of the Equality Act 2010.

- 12.2 It is considered that the particular PSPOs, the subject of this report, do not target those with any of the protected characteristics and it is not considered that they will have a negative impact on those with protected characteristics.
- 12.3 The Council will ensure that the consultation is accessible to those with protected characteristics by making it available through a variety of mediums with appropriate support provided, as required.
- 12.4 As far as the wider community is concerned, there may be some who may be resistant to the prohibitions and requirements set out in the proposed PSPOs and it is important that the Council retains an open mind in terms of any final decision, until the outcome of the consultation process is known.
- 12.5 Statutory Guidance additionally states that '*Consideration should be given to how the use of this power might impact on the most vulnerable in our society*' and '*Consideration should also be given to any risks associated with displacement, including to where people may be dispersed to*'. The Council or those that the Council authorises to enforce any PSPO that is made, will have particular discretion over the issuing of Fixed Penalty Notices or the decision to prosecute over breaches of the PSPO. Decisions to issue Fixed Penalty Notices or to instigate prosecution proceedings will be subject to careful and proportionate decision making. The Council will also carefully consider whether there is any displacement activity relating to PSPO No 1 which deals with wildfires and BBQs and may consider additional areas to include at a later stage. This will be kept under review.

### **13. CONCLUSION**

- 13.1 PSPOs, if used proportionately and in the right circumstances, allow local areas to counter unreasonable and persistent behaviour that affects the quality of life of residents.
- 13.2 There is substantial evidence to support the two PSPOs proposed in this report and Officers are satisfied that the legal tests are met to enable the Council to move to a formal consultation of its proposals. It is important that the Council retains an open mind until the outcome of the consultation is known. A decision will only be taken on whether to proceed to make the orders, at that time.

### **14. PORTFOLIO HOLDER COMMENTS**

- 14.1 The overwhelming majority of those living, working and visiting the open areas of the New Forest do so in a way that respects the New Forest Code (<https://www.newforestnpa.gov.uk/visiting/help-care-for-the-forest/new-forest-code/>) and of those that don't, most fail to do so due to a lack of awareness, which can be addressed through better signage and engagement. However, evidence shows that there is small percentage who, despite engagement, continue to light fires and BBQs or feed and pet depastured livestock. As the number of people enjoying the open Forest has increased, while continuing to be a small percentage, the number of people who continue with these damaging activities despite requests to cease, has also risen.

The report sets out why the Council is consulting on the potential introduction of two PSPOs, the harm the activities covered cause, the measures that have already been taken to try and reduce risk and mitigate harm, and why this step is now considered

to be required to protect the open Forest and the depastured livestock which maintain the landscape and its unique ecology.

For the reasons set out in the report, I support the recommendations and would encourage all those with a view on the proposed PSPOs, whether supportive or opposed, to respond to the consultation.

<b>For Further Information Please Contact:</b>	<b>Background Papers:</b>
<p>Grainne O'Rourke Executive Head of Governance &amp; Housing and Monitoring Officer Tel: (023) 8028 5076 E-mail: <a href="mailto:grainne.orourke@nfdc.gov.uk">grainne.orourke@nfdc.gov.uk</a></p> <p>Amanda Wilson Information Governance &amp; Complaints Manager Tel: (023) 8028 5306 E-mail: <a href="mailto:amanda.wilson@nfdc.gov.uk">amanda.wilson@nfdc.gov.uk</a></p>	<p>Published Documents: <a href="http://www.newforest.gov.uk/PublicSpaceProtectionOrders">www.newforest.gov.uk/PublicSpace ProtectionOrders</a></p>

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**ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014**  
**SECTION 59**

**THE NEW FOREST PUBLIC SPACES PROTECTION ORDER 2022 (NO.1)**

**1. ORDER**

This Order is made by New Forest District Council ("the Council") in exercise of its powers under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 ("the Act") and shall be known as The New Forest Public Spaces Protection Order 2022 (No.1) ("this Order").

**2. DEFINITIONS**

In this Order the following words or phrases are defined as follows:

"Activities"	means: <ul style="list-style-type: none"><li>(a) placing, throwing or dropping items likely to cause a fire,</li><li>(b) lighting fires (of any type) or barbeques (including disposable barbeques and any outdoor temporary cooking facilities or equipment),</li><li>(c) using items which either (i) cause a naked flame or (ii) pose a risk of fire;</li></ul>
"Forestry England Campsites"	means the campsites at Aldridge Hill, Ashurst, Denny Wood, Hollands Wood, Holmsley, Longbeech, Matley, Ocknell, Roundhill, and Setthorns which are within the Restricted Area and owned by Forestry England as shown outlined and coloured in red on the maps attached to Schedule 1;
"Authorised Officer"	means a constable or person authorised in writing by the Council for the purposes of this Order;
"Interested Person"	means an individual who lives in the Restricted Area or who regularly works in or visits that area;
"New Forest"	means the administrative area of the New Forest District Council;
"Public Space"	means any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission; and
"Restricted Area"	means any Public Space within the land identified and described in Schedule 1 and outlined and hatched in blue on the attached maps.

### **3. PRELIMINARY**

- (1) The Council, in making this Order, is satisfied on reasonable grounds that the Activities have carried on, or it is likely that they will be carried on, in Public Places within the New Forest and have had a detrimental effect on the quality of life of those in the locality; namely the starting of fires in grass, heathland and forest areas. Such fires can result in serious safety concerns and risk to life; damage biodiversity, habitats and property and require significant community resources to deal with them, and that the effect, or likely effect, of the Activities—
  - (a) is, or is likely to be, of a persistent or continuing nature,
  - (b) is, or is likely to be, such as to make the Activities unreasonable, and
  - (c) justifies the restrictions imposed by this Order.
- (2) The Council is satisfied that the Prohibition and the Requirements imposed by this Order are reasonable to impose to prevent the detrimental effect of these Activities from continuing, occurring or recurring, or to reduce that detrimental effect or to reduce the risk of their continuance, occurrence or recurrence.
- (3) This Order should be read in conjunction with Schedule 1 and attached maps thereto.

### **4. DURATION OF THIS ORDER**

This Order shall come into effect at midnight on **xxxx** for a period of three years, unless extended.

### **5. APPLICATION**

This Order applies at all times, to all persons within the Restricted Area subject to the Exceptions listed in Article 8.

### **6. PROHIBITION**

- (1) A person shall not engage in any of the Activities within the Restricted Area (“the Prohibition”).
- (2) The Prohibition is subject to the Exceptions in Article 8.

### **7. REQUIREMENT**

- (1) Where an Authorised Officer has reasonable grounds to believe that any person within the Restricted Area has acted, is acting, or is likely to act, contrary to this Order, they shall, if and as required by an Authorised Officer terminate the Activities.
- (2) If any person within the Restricted Area has in their possession any item(s) which an Authorised Officer has reasonable grounds to believe is being, or is likely to be used in conjunction with the Activities contrary to this Order, they shall, if and as required by an Authorised Officer, extinguish and/or surrender the item(s) to an Authorised Officer.
- (3) The Requirements are subject to the Exceptions in Article 8.

## **8. EXCEPTIONS**

- (1) This Order shall not apply to legitimate land management activities undertaken by those with a legal interest in the Restricted Area (as owners, lessors, lessees, or tenants), or their authorised agents;
- (2) This Order shall not apply to Forestry England Campsites where the Activities on those sites comprise the proper use of barbeques and stoves that are purpose built and raised off the ground. All other Activities on those sites are subject to the Prohibition.

## **9. OFFENCE**

- (1) Section 67 of the Act states that it is an offence for a person without reasonable excuse to:
  - (a) do anything that the person is prohibited from doing by this Order, or
  - (b) fails to comply with a requirement to which the person is subject under this Order.
- (2) A person who is guilty of an offence shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) A person does not commit an offence by failing to comply with a prohibition or requirement that the Council did not have the power to include in the public space protection order.

## **10. FIXED PENALTY NOTICES**

- (1) An Authorised Officer may issue a fixed penalty notice to anyone they have reason to believe has committed an offence under this Order. Such notice offers the person to whom it is issued the opportunity to discharge their liability to conviction for the offence by payment of a fixed penalty.
- (2) The penalty is set at £100.00 to be paid within 28 days but is reduced to £75.00 if paid within 14 days.

## **11. CHALLENGING THE VALIDITY OF THIS ORDER**

- (1) An Interested Person may question the validity of this Order on the grounds that:
  - (a) the Council has no power to make it or to include particular prohibition or requirement imposed by this Order;
  - (b) a requirement of the Act has not been complied with in relation to this Order
- (2) An application must be made to the High Court within the period of six weeks beginning with the date on which this Order is made.

Date:

THE COMMON SEAL OF NEW FOREST  
DISTRICT COUNCIL

Was hereto affixed in the presence of:-

}



## **SCHEDULE 1**

The Restricted Area principally comprises all land managed and controlled by Forestry England (which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission) and roads within the area outlined and hatched blue on the maps attached (including the Forestry England Campsites) hereto comprising an overview map (scale 1:100,000) and sheets 1 to 20 (scale 1:20,000)

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# New Forest

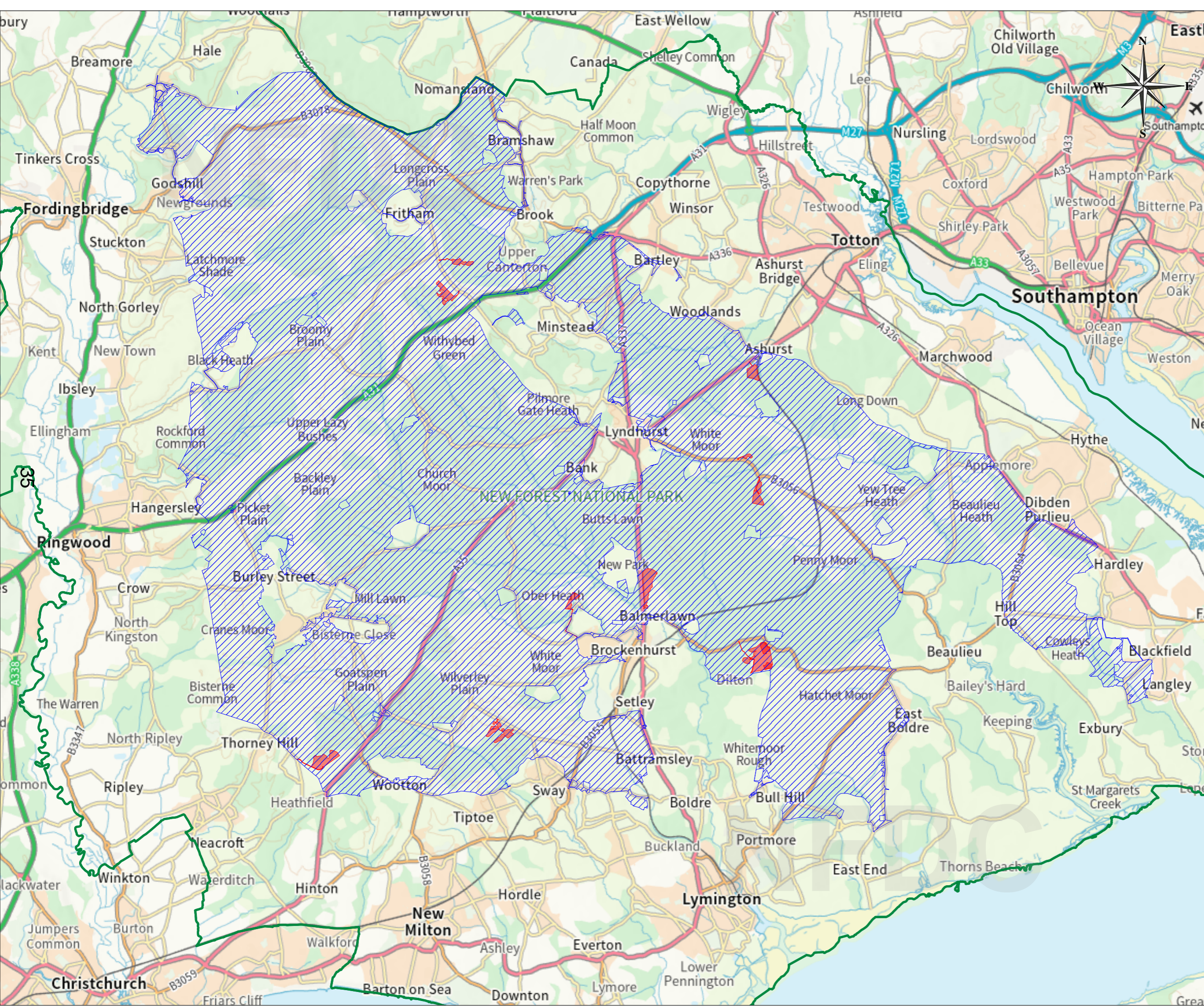
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www.newforest.gov.uk

## THE NEW FOREST PUBLIC SPACES PROTECTION ORDER 2022 (NO.1)

Overview Map

-  Restricted Area
-  Forestry England Campsites
-  District Boundary



Scale 1:100000

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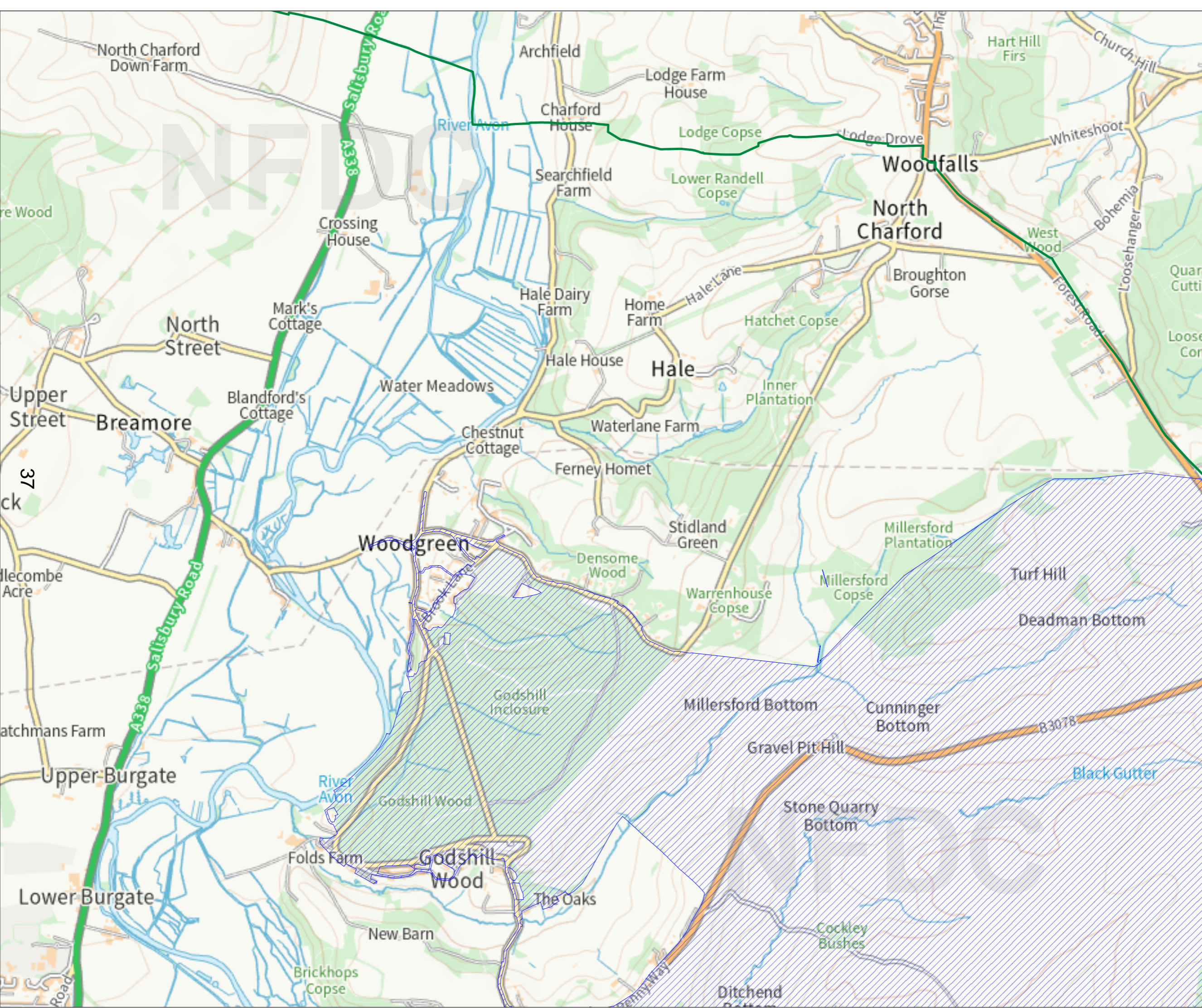
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-  Restricted Area
-  Forestry England Campsites
-  District Boundary

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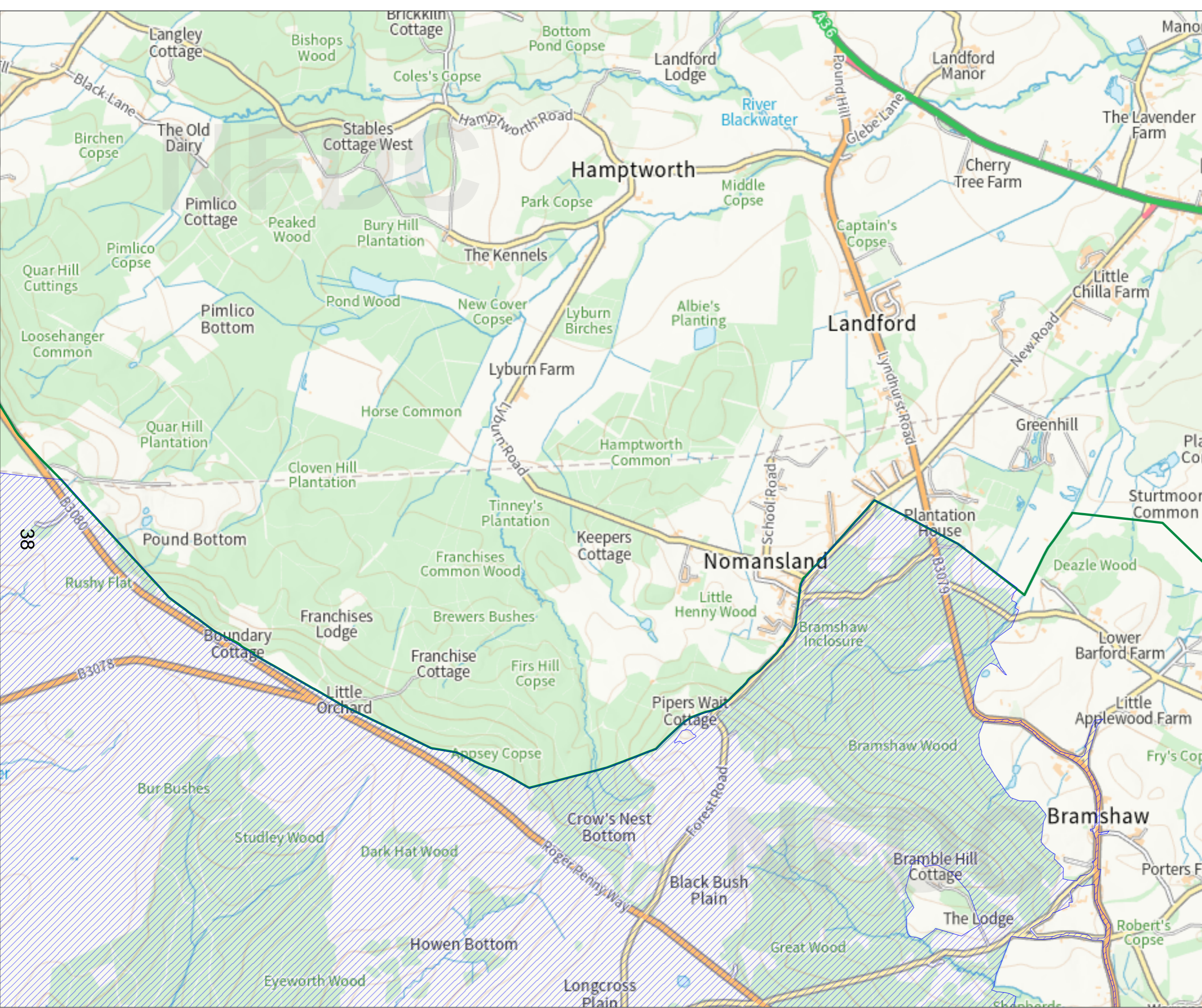
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-  Restricted Area
-  Forestry England Campsites
-  District Boundary

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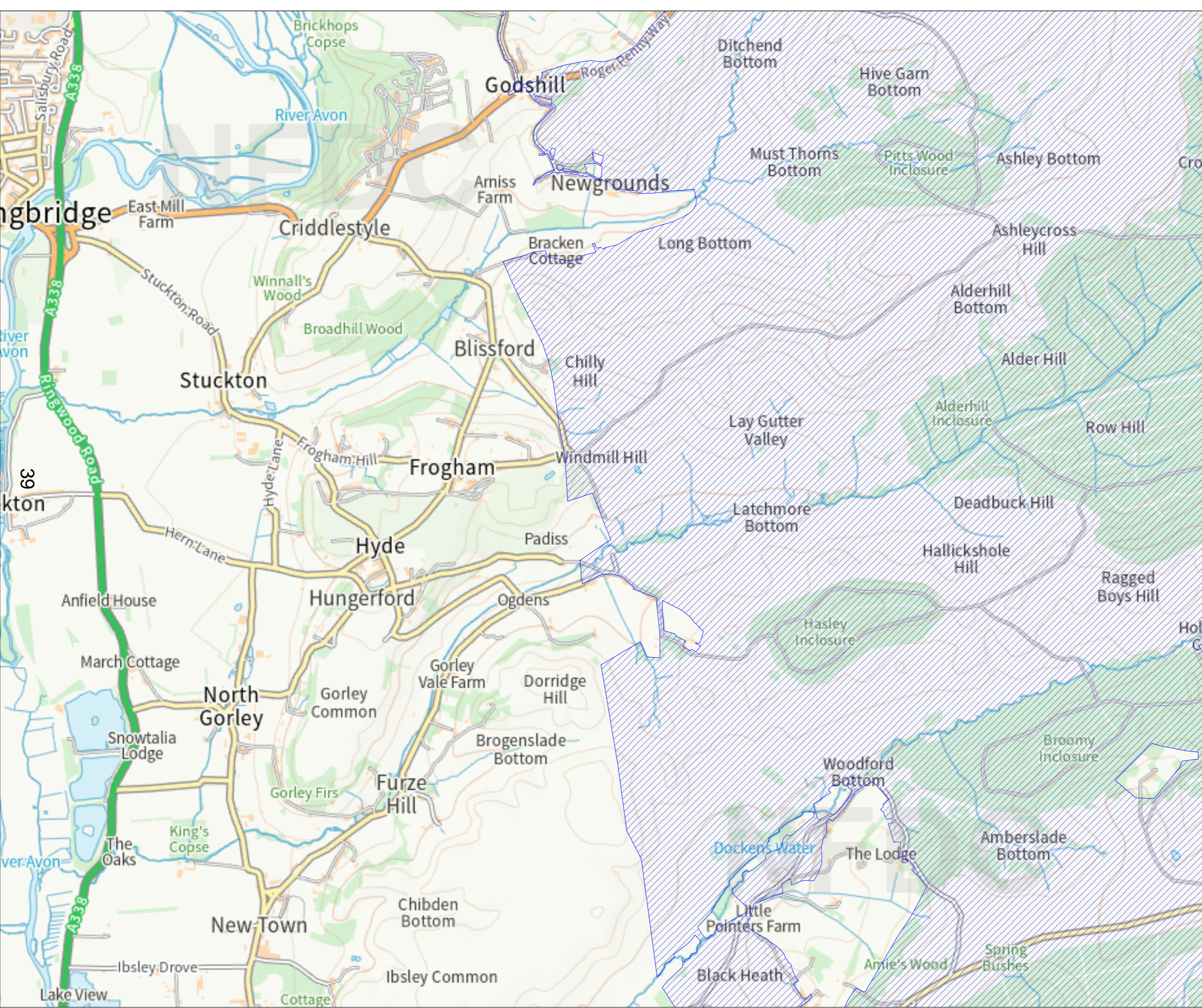
## THE NEW FOREST PUBLIC SPACES PROTECTION ORDER 2022 (NO.1)

-  Restricted Area
-  Forestry England Campsites
-  District Boundary

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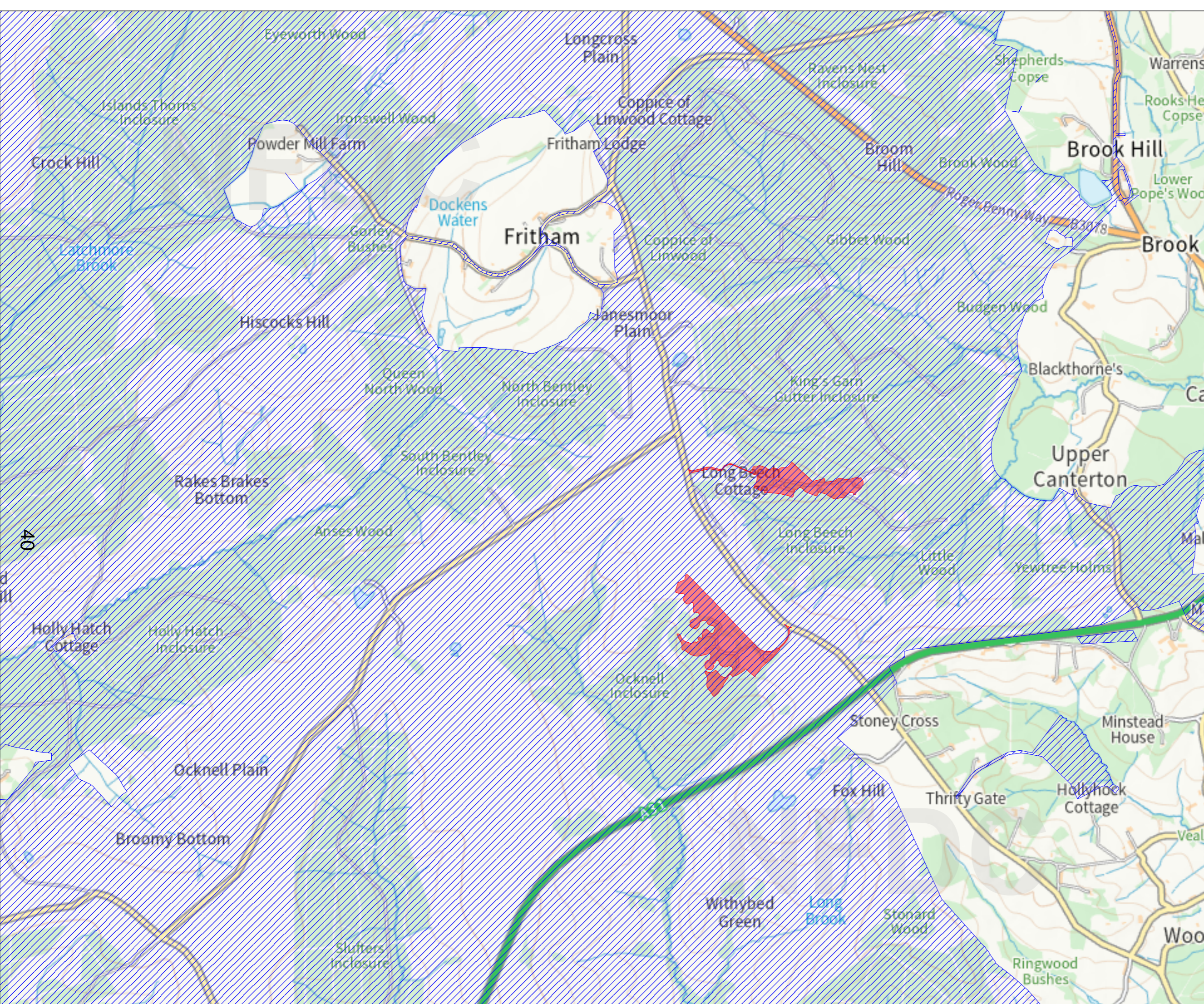
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-  Restricted Area
-  Forestry England Campsites
-  District Boundary

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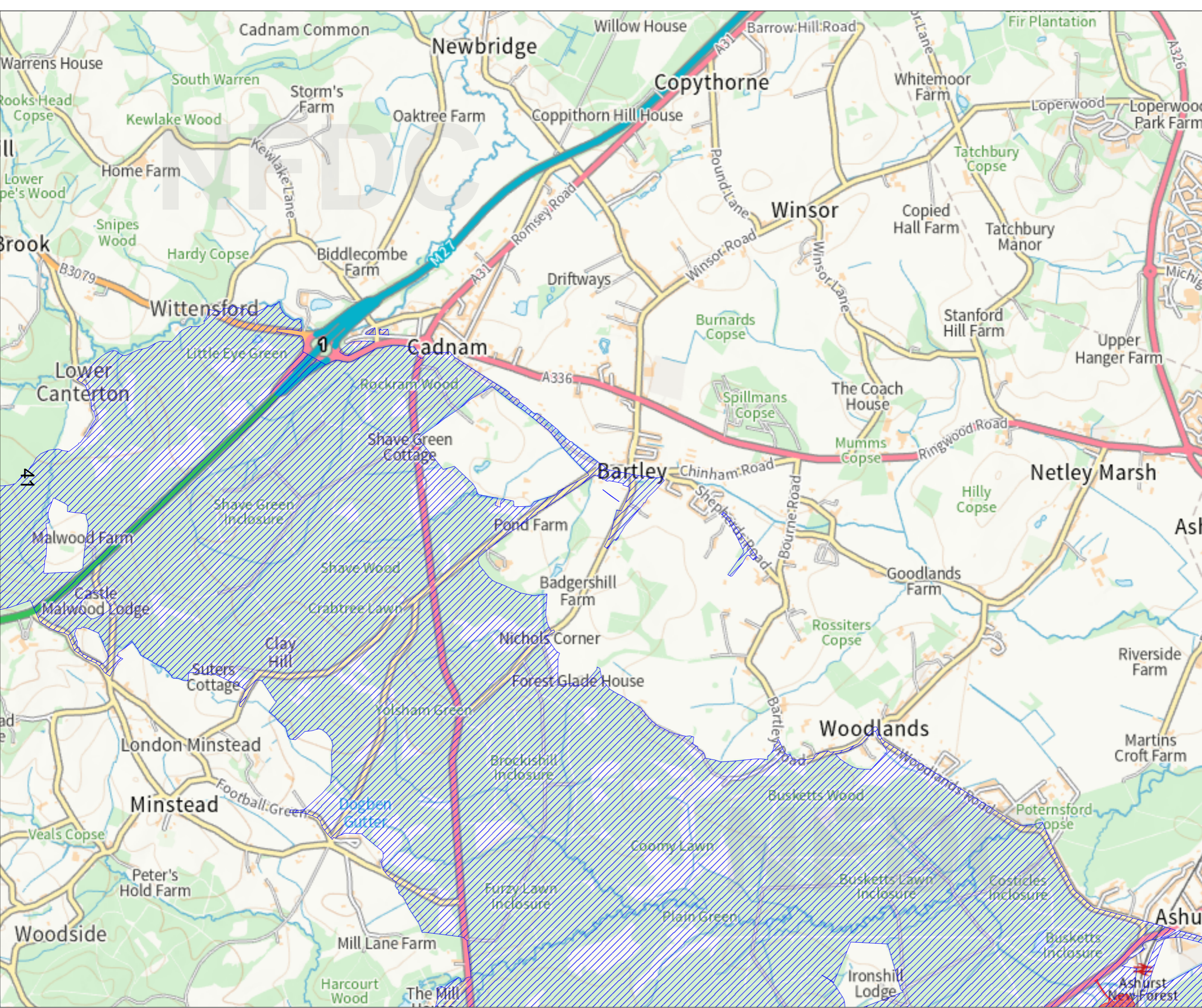
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-  Restricted Area
-  Forestry England Campsites
-  District Boundary

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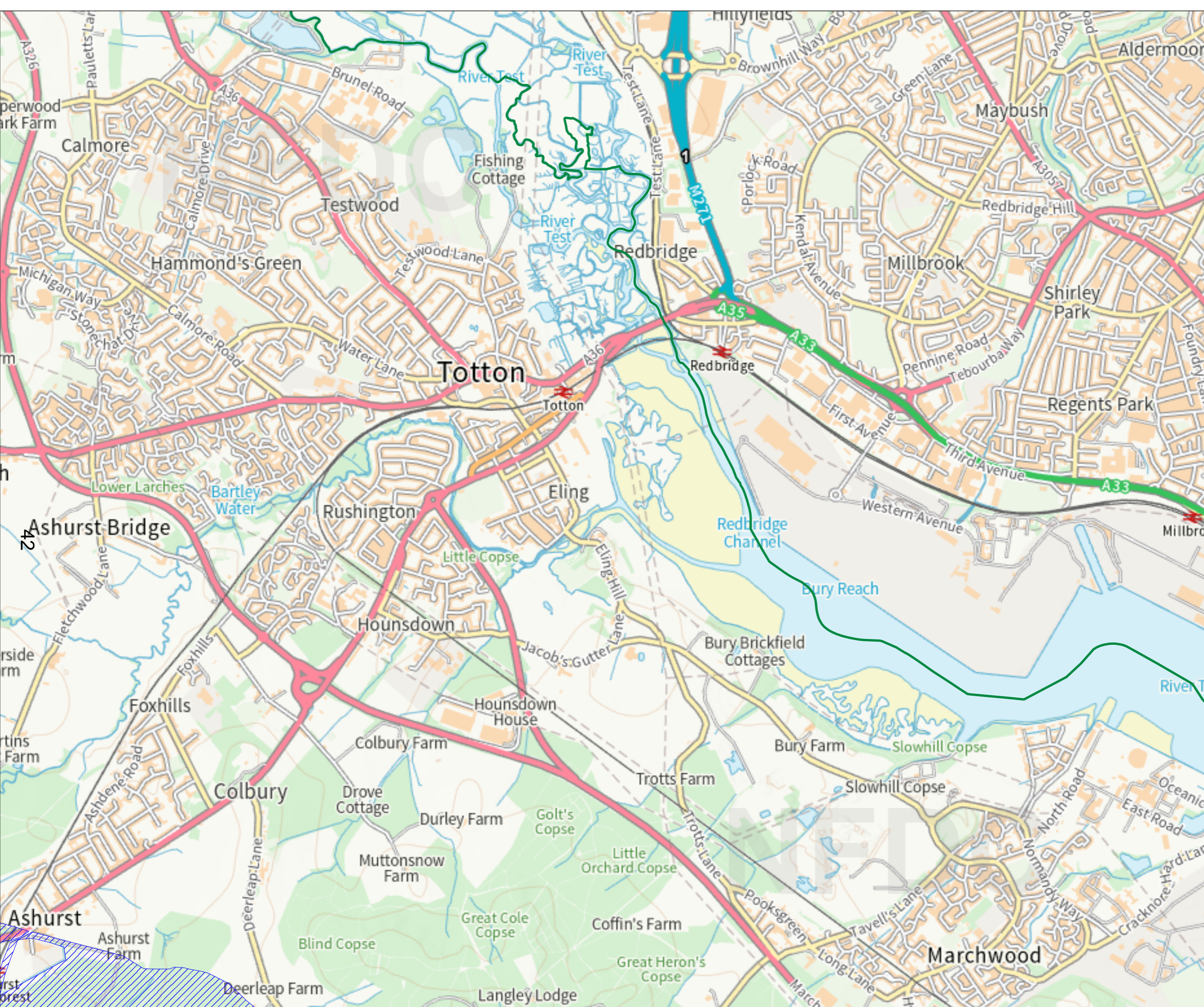
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-  Restricted Area
-  Forestry England Campsites
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-  Restricted Area
-  Forestry England Campsites
-  District Boundary

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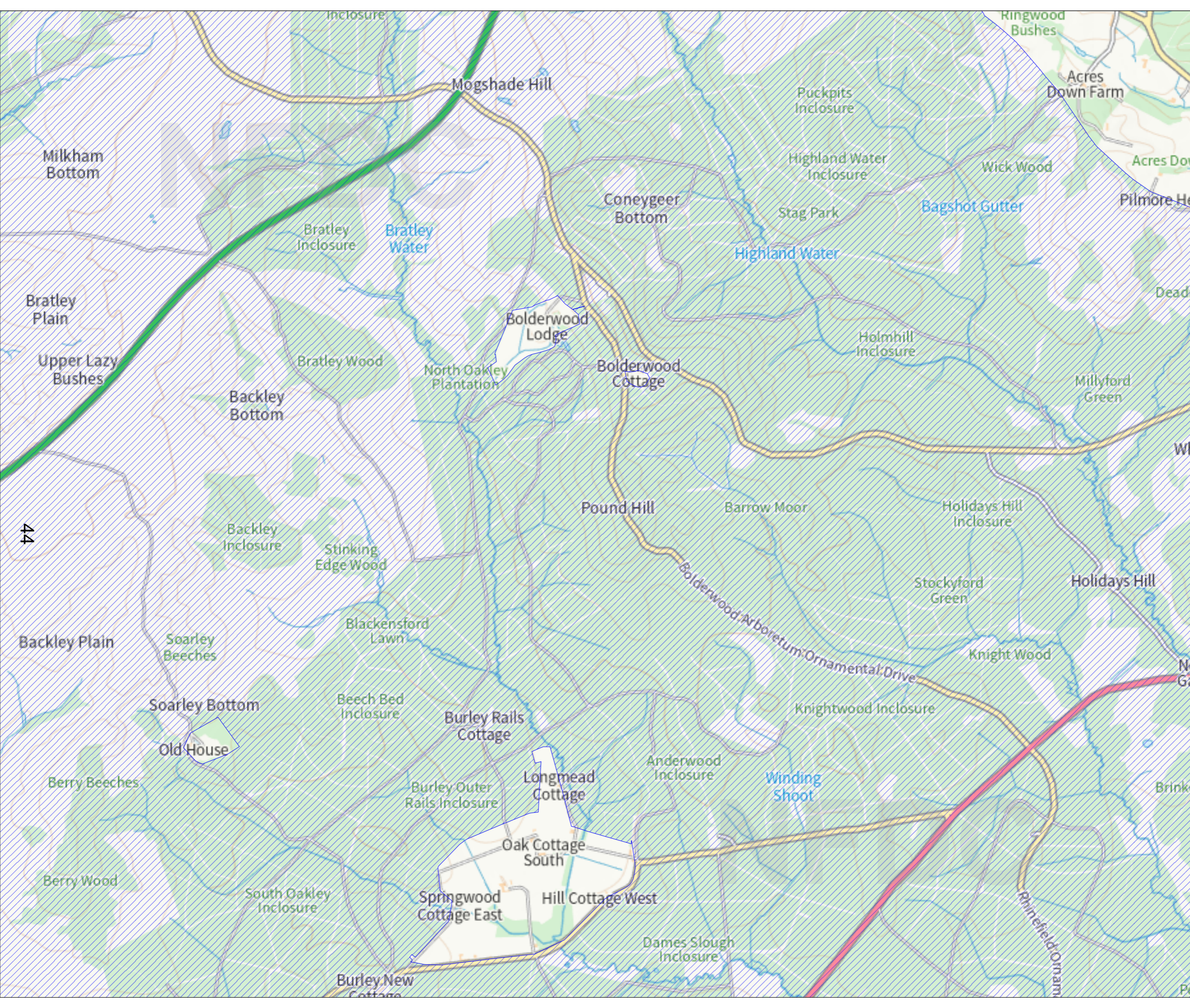
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-  Restricted Area
-  Forestry England Campsites
-  District Boundary

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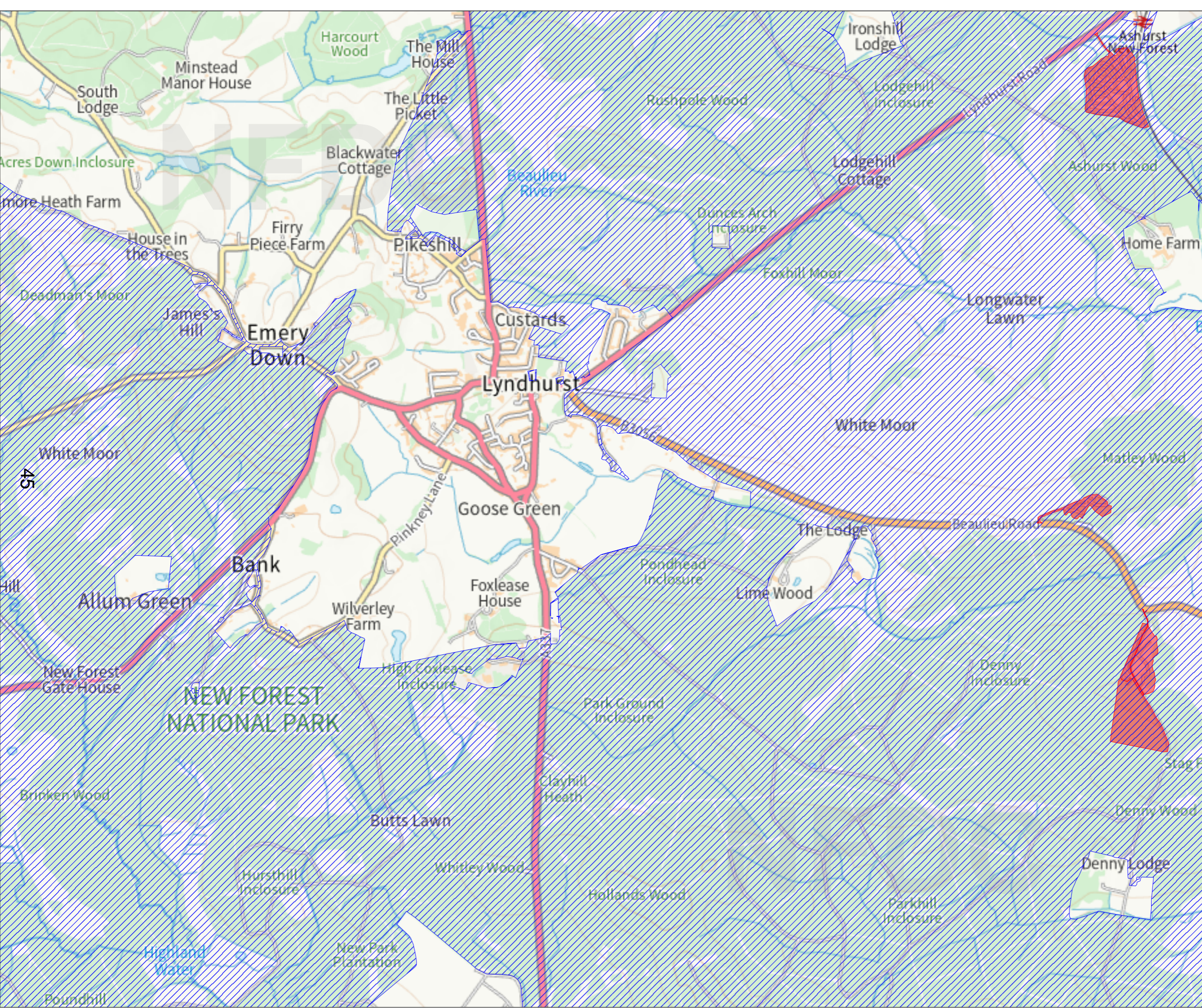
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-  Restricted Area
-  Forestry England Campsites
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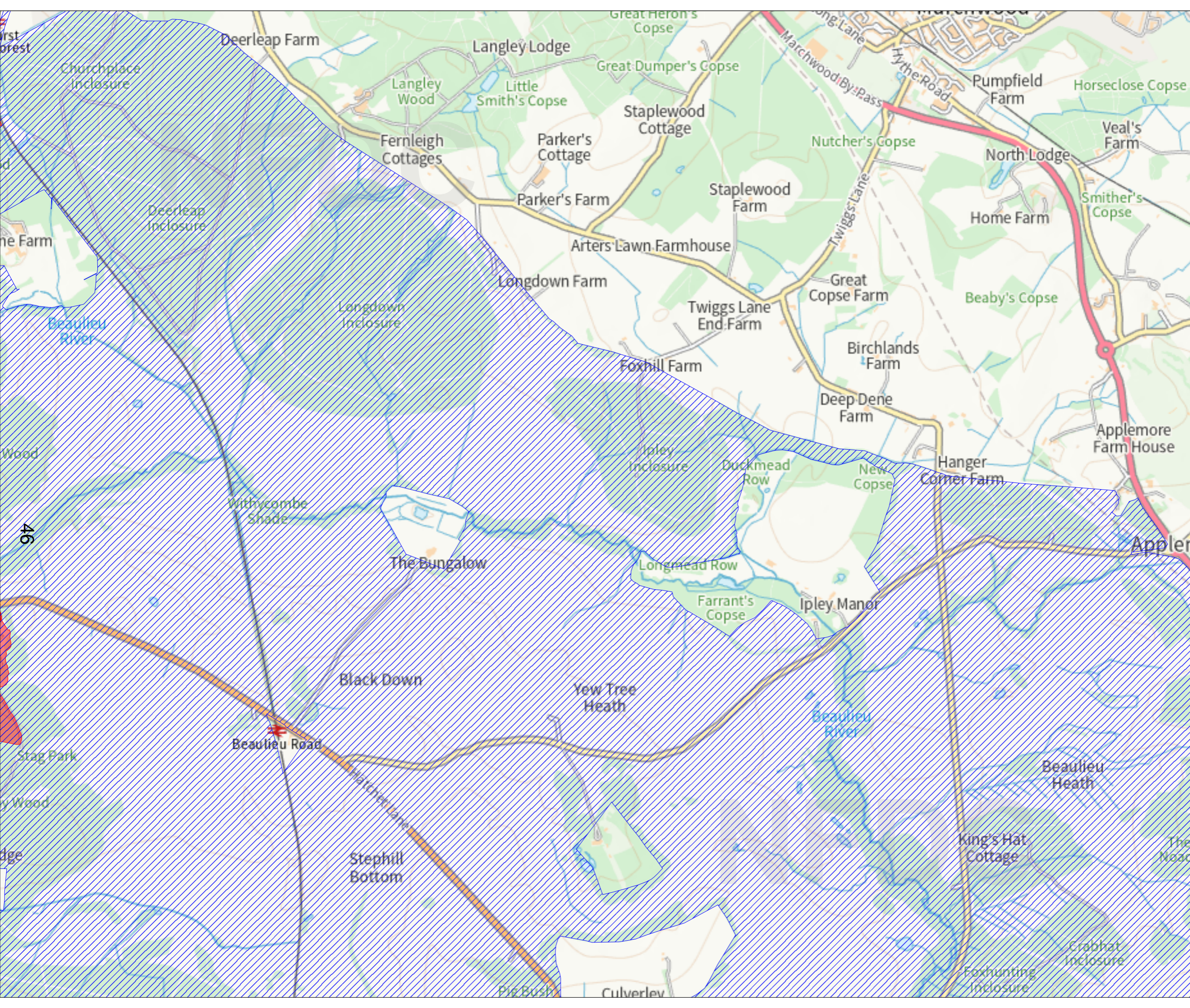
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-  Restricted Area
-  Forestry England Campsites
-  District Boundary

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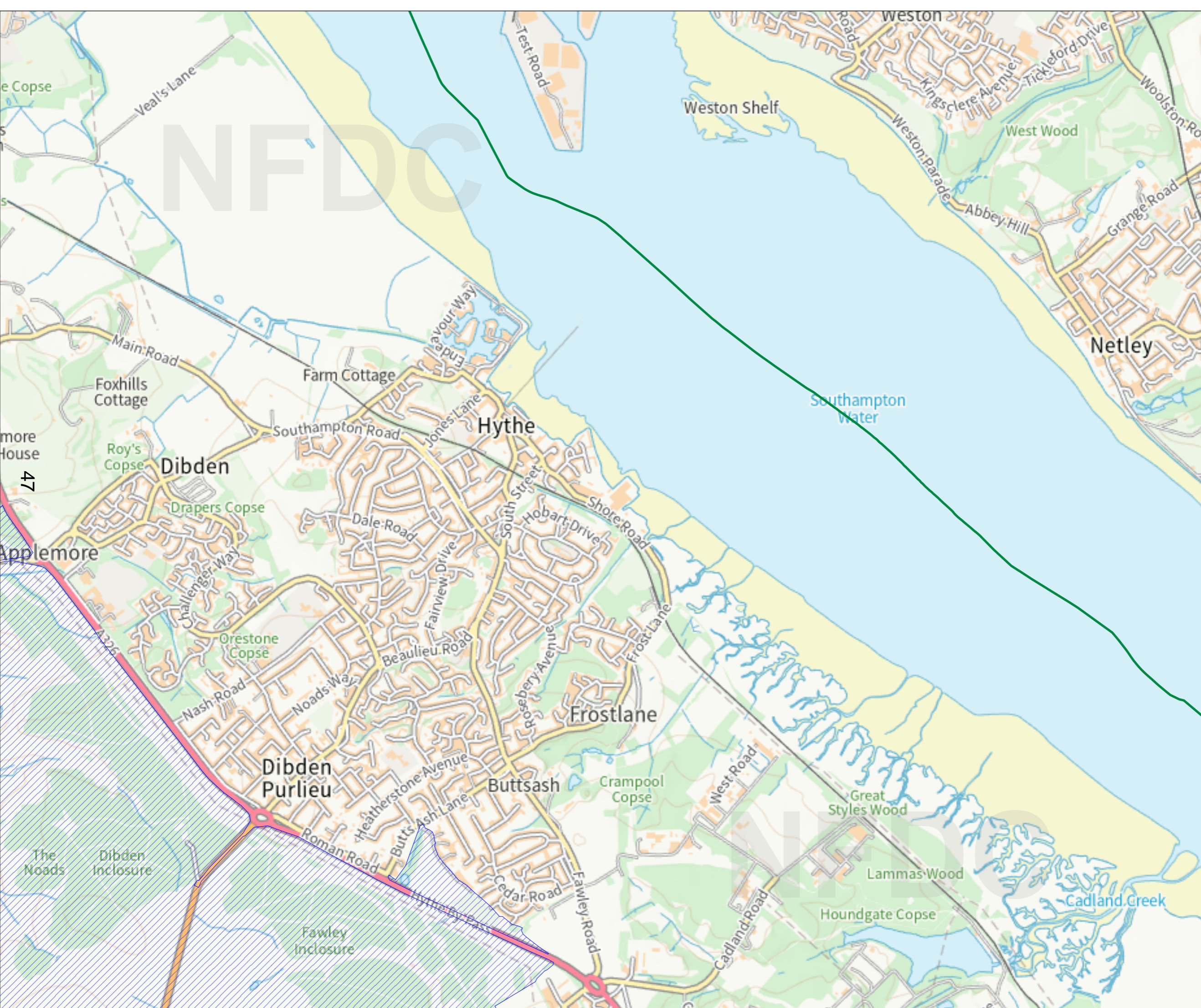
THE NEW FOREST  
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ORDER 2022 (NO.1)

-  Restricted Area
-  Forestry England Campsites
-  District Boundary

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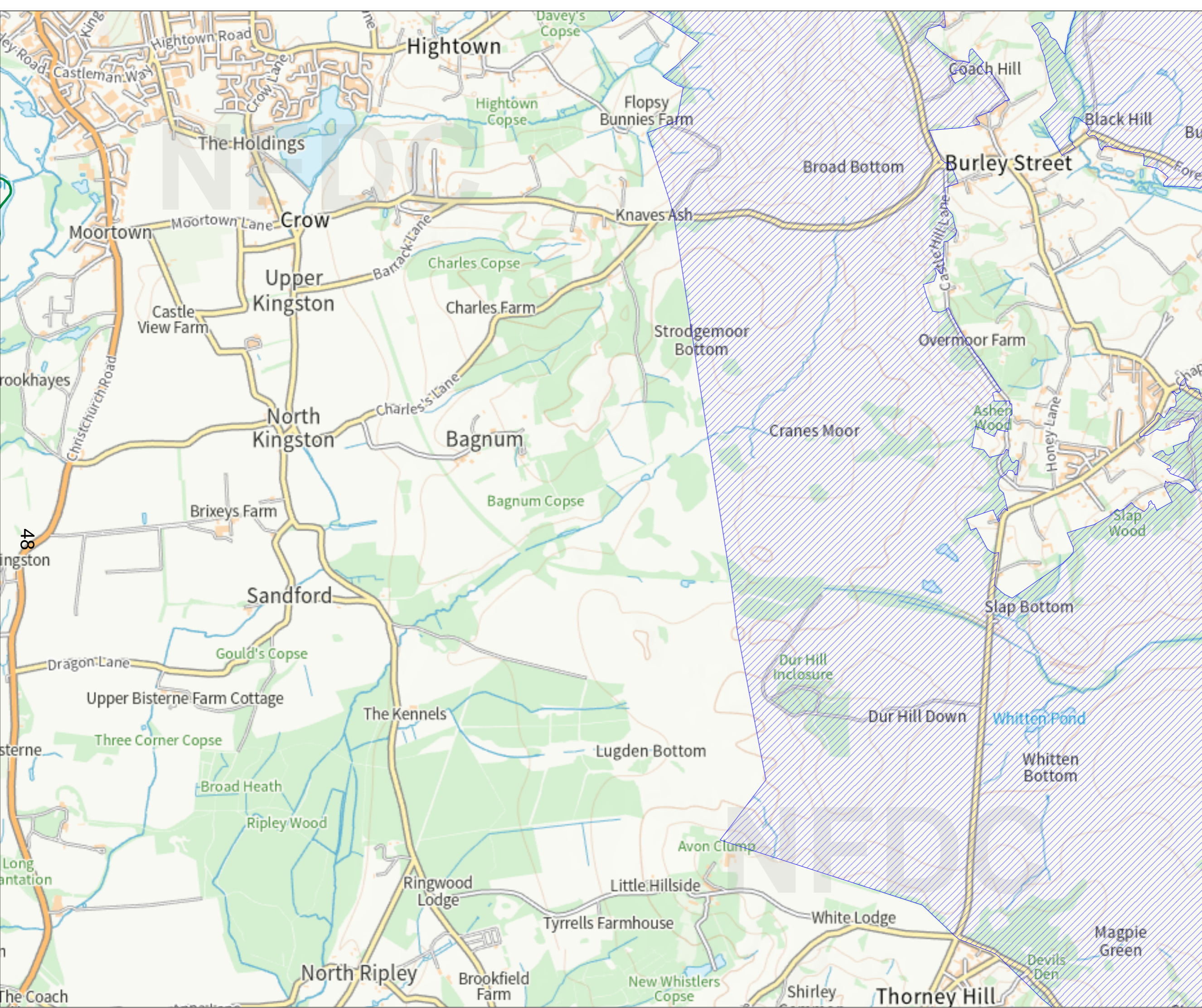
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-  District Boundary

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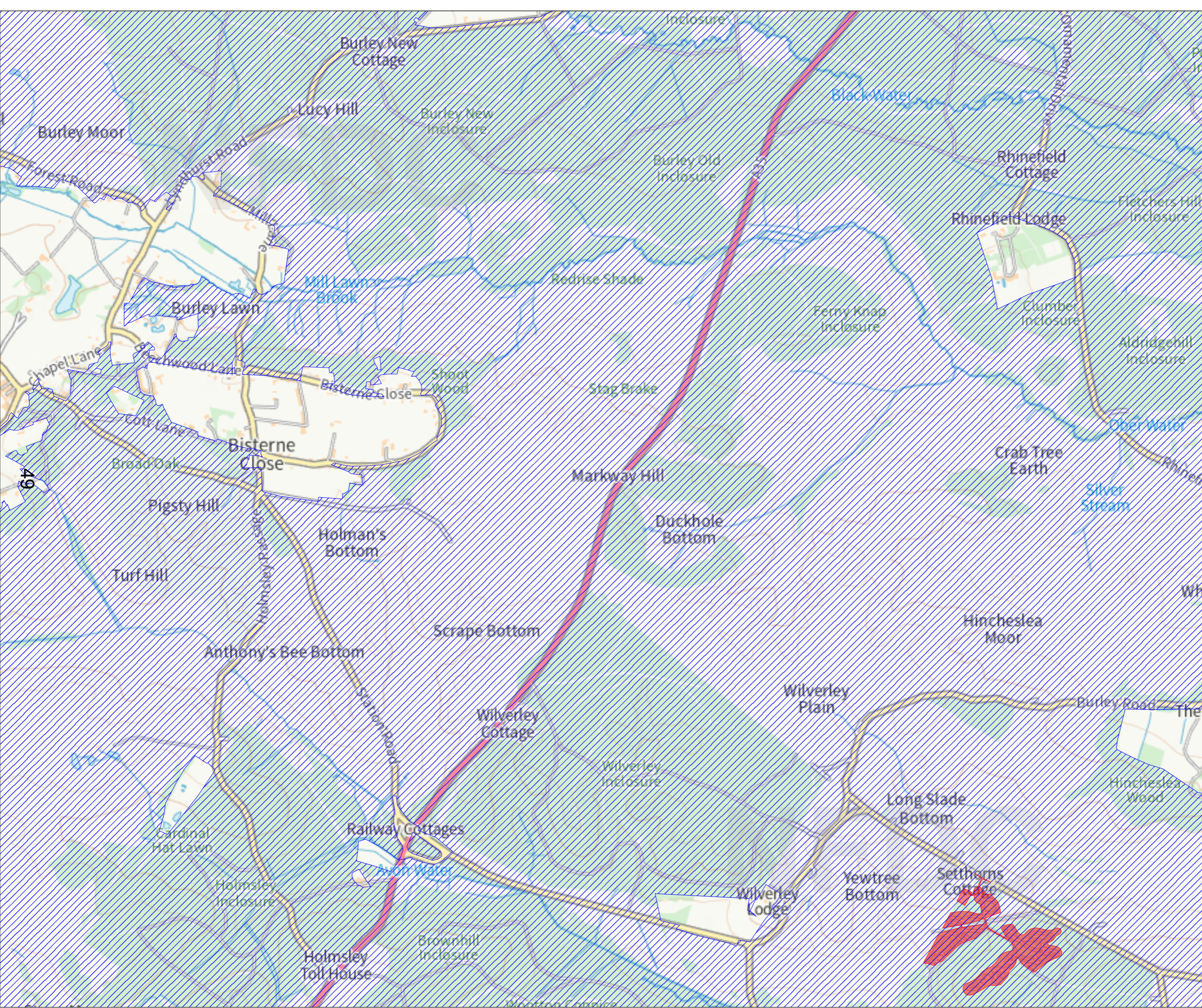


THE NEW FOREST  
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ORDER 2022 (NO.1)

-  Restricted Area
-  Forestry England Campsites
-  District Boundary




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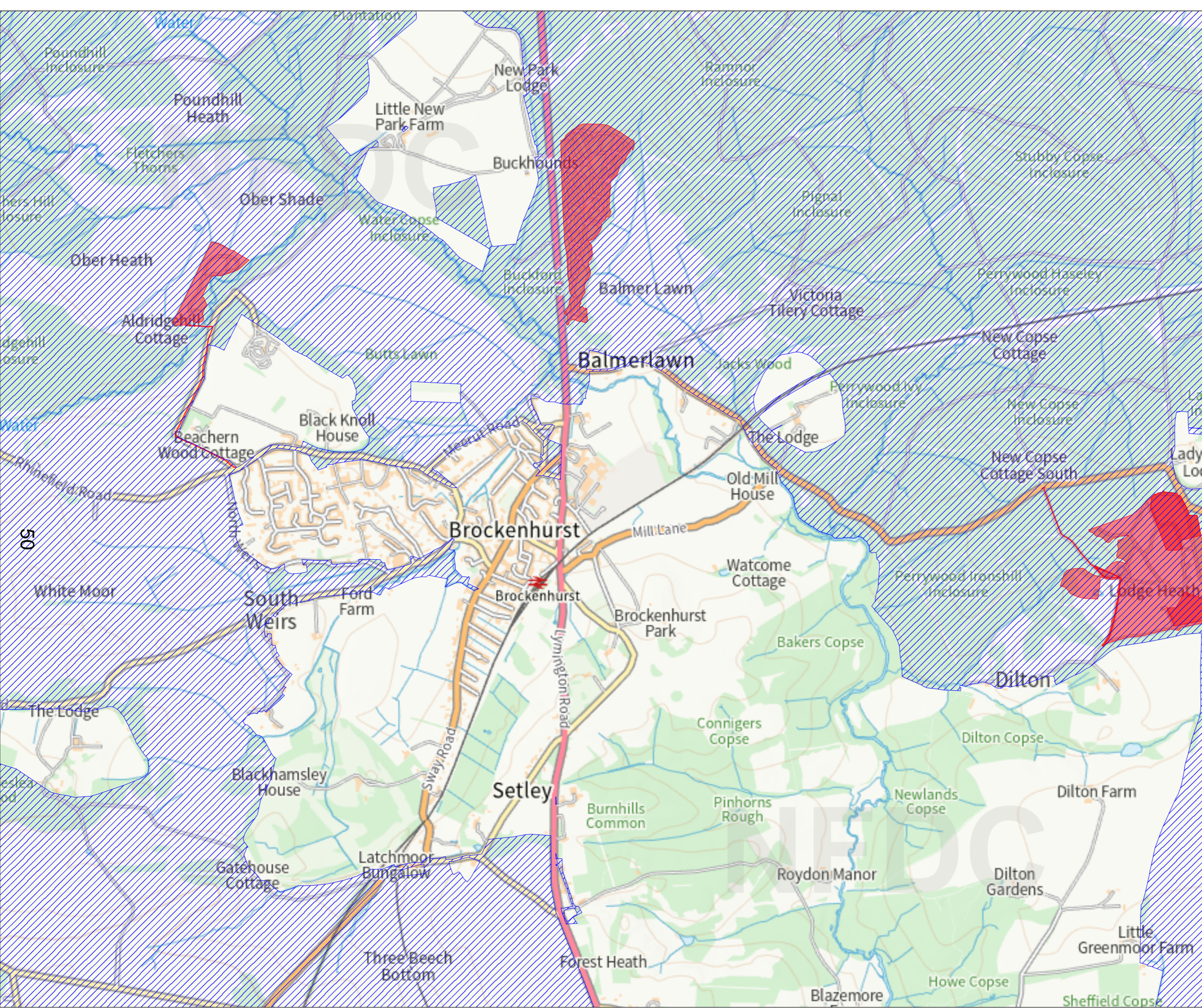




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-  Restricted Area
-  Forestry England Campsites
-  District Boundary

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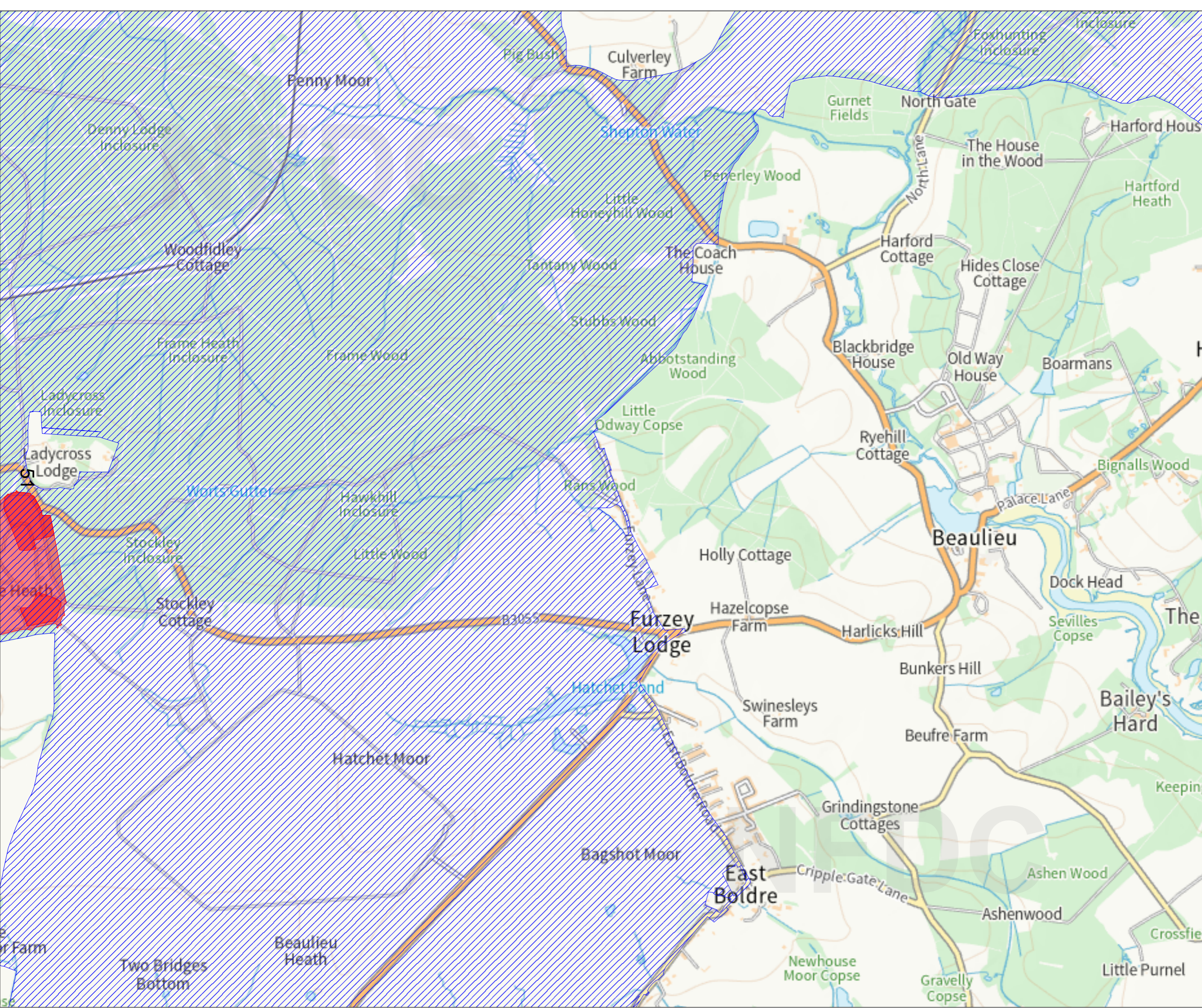
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-  Restricted Area
-  Forestry England Campsites
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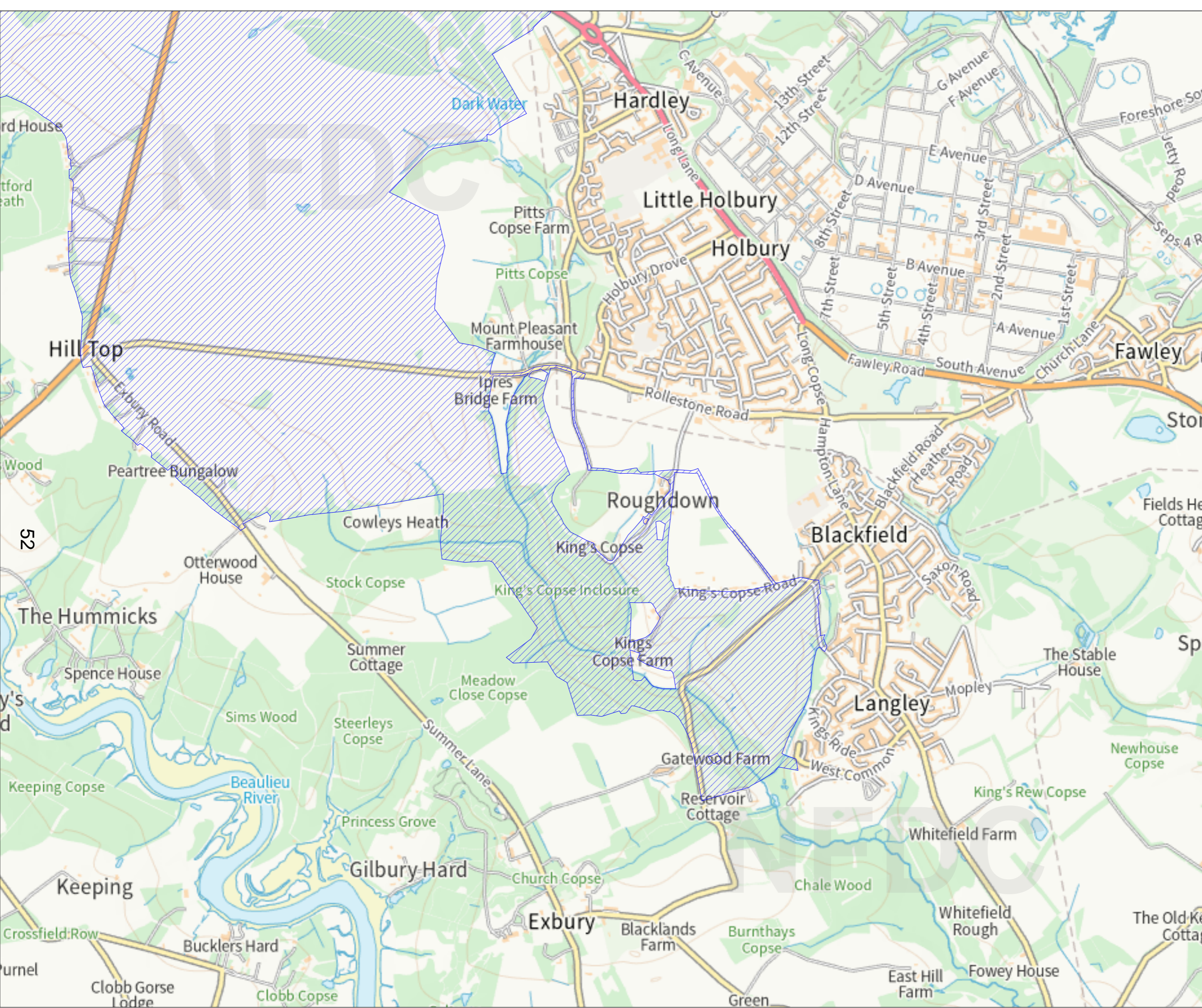
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-  Restricted Area
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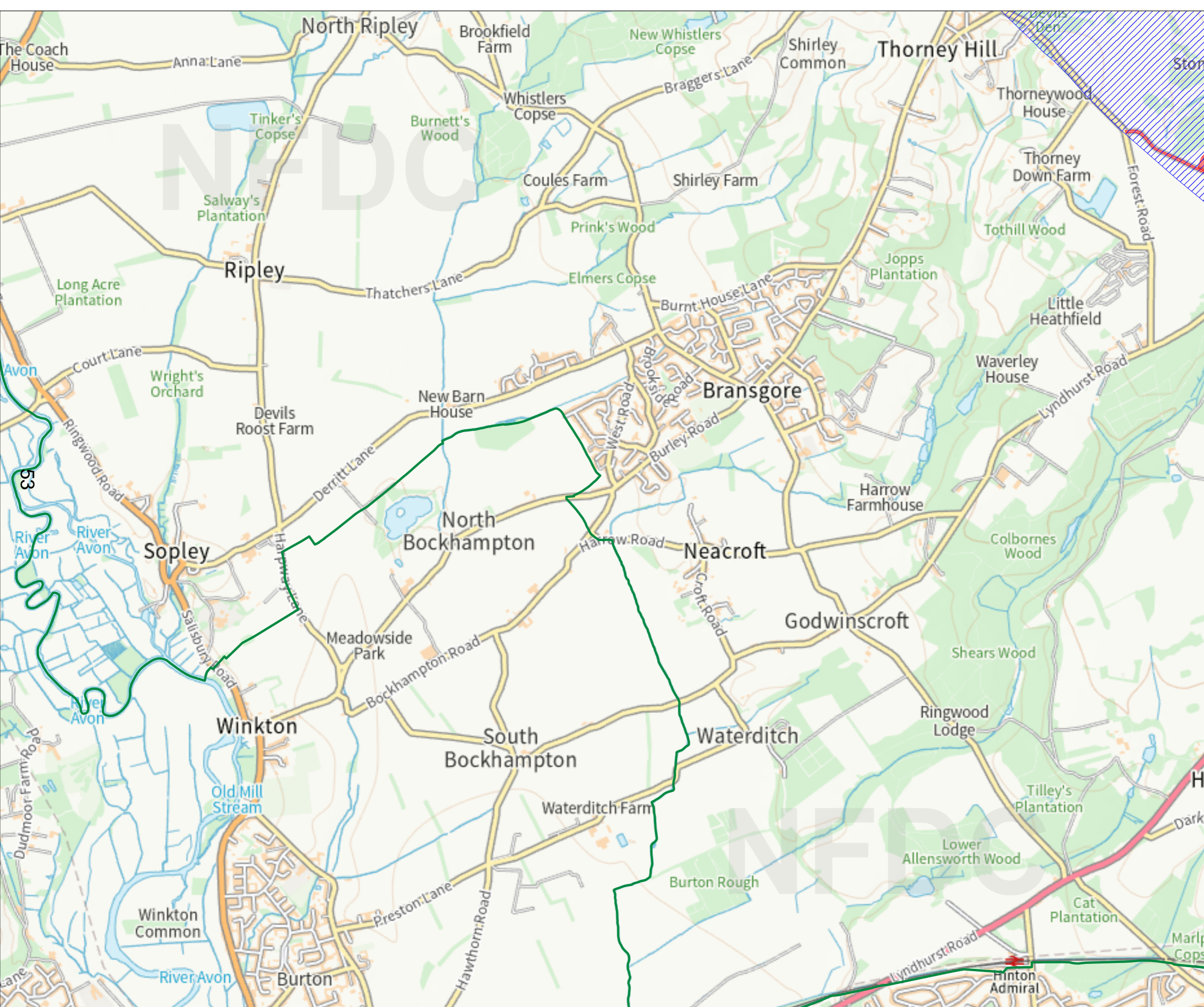
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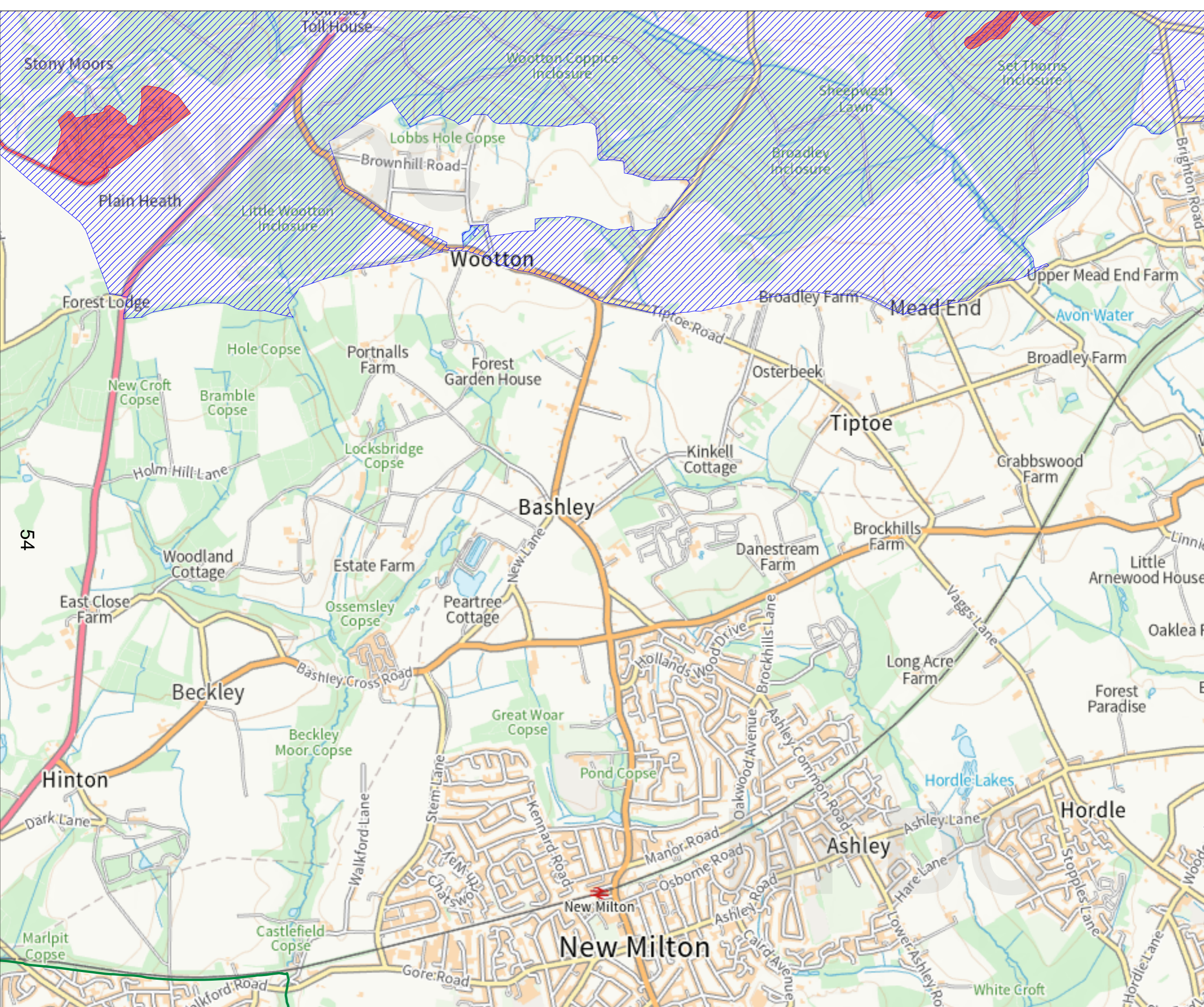
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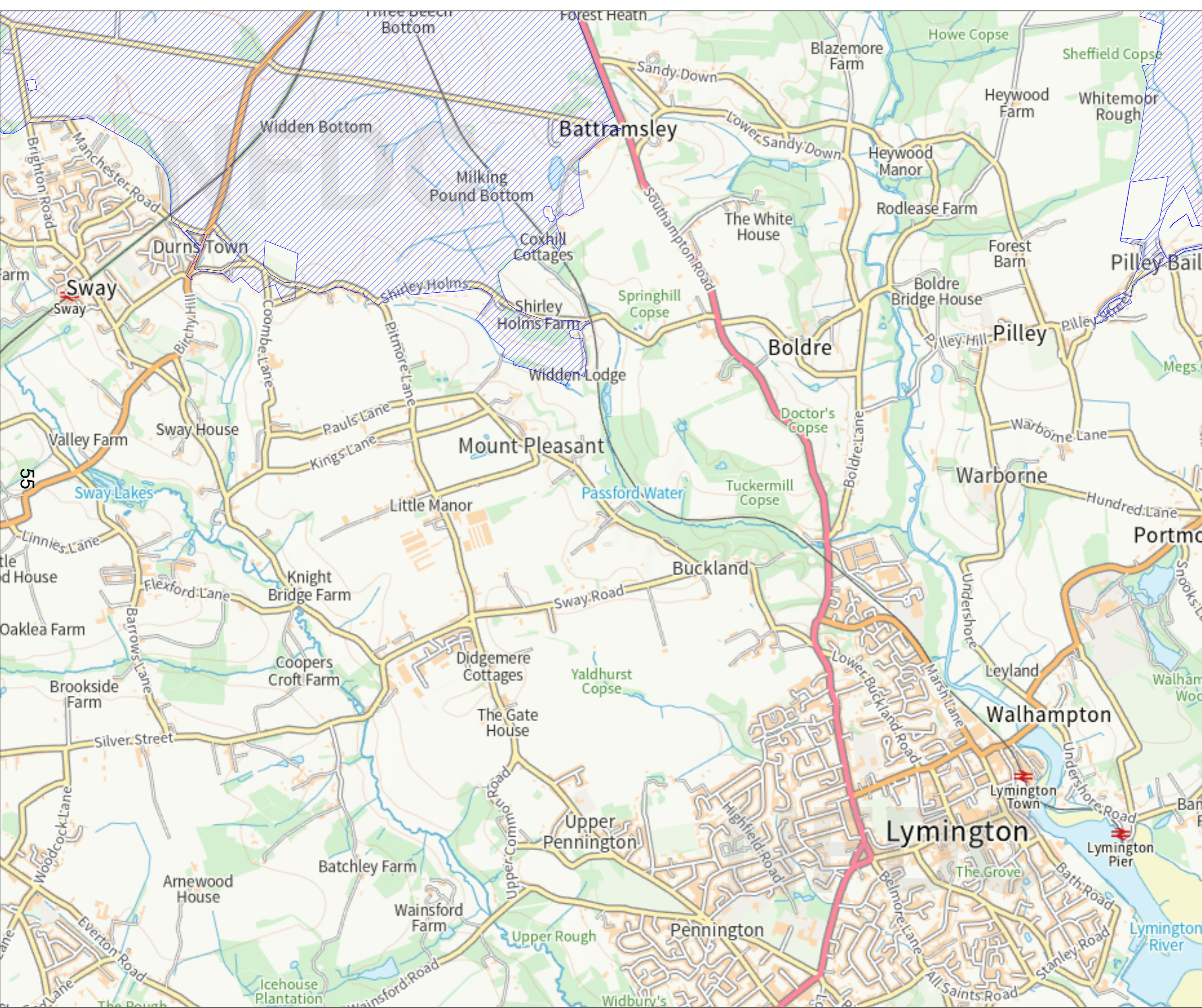
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-  Restricted Area
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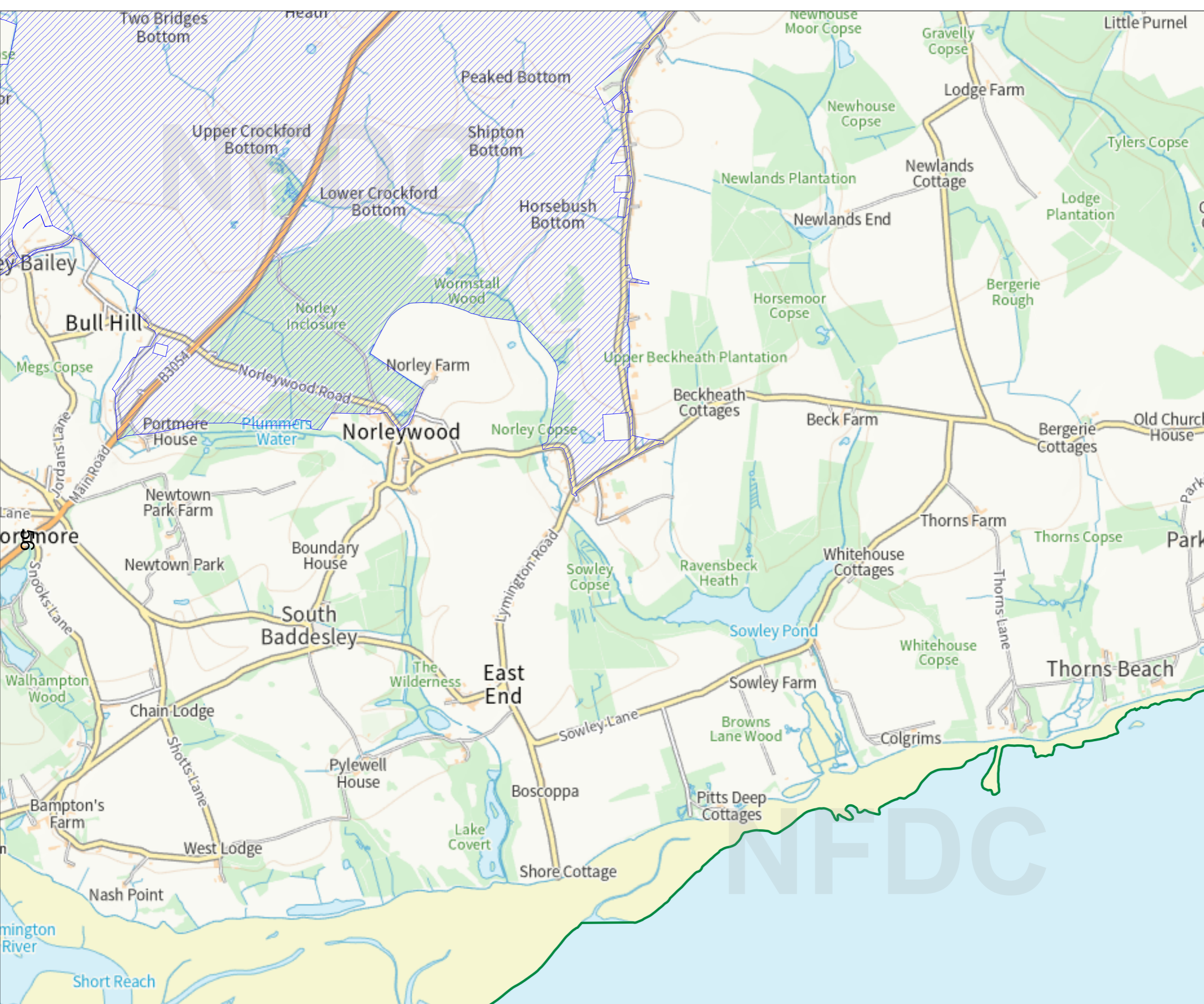
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## THE NEW FOREST PUBLIC SPACES PROTECTION ORDER 2022 (NO.1)

-  Restricted Area
-  Forestry England Campsites
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**ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014**  
**SECTION 59**

**THE NEW FOREST PUBLIC SPACES PROTECTION ORDER 2022 (NO.2)**

**1. ORDER**

This Order is made by New Forest District Council ("the Council") in exercise of its powers under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 ("the Act") and shall be known as The New Forest Public Spaces Protection Order 2022 (No.2) ("this Order").

**2. DEFINITIONS**

In this Order the following words or phrases are defined as follows:

"Activities"	means:  (a) feeding or providing or depositing food for consumption by any New Forest Pony, Horse, Mule or Donkey; or  (b) petting or touching any New Forest Pony, Horse, Mule or Donkey;
"Agister"	means a person who is for the time being employed or appointed as an agister by the Verderers;
"Authorised Officer"	means a constable or person authorised in writing by the Council for the purposes of this Order;
"Interested Person"	means an individual who lives in the Restricted Area or who regularly works in or visits that area;
"New Forest"	means the administrative area of the New Forest District Council;
"New Forest Commoner"	means anyone who owns/occupies land or property to which common rights over the New Forest attach;
"New Forest Pony, Horse, Mule or Donkey"	means any pony, horse, mule or donkey owned by any New Forest Commoner and free to roam in the Restricted Area;
"Public Space"	means any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission;

“Restricted Area” means any Public Space within the land identified and described in Schedule 1 and outlined and hatched in blue on the attached maps; and

“Verderers” means Verderers of the Forest and includes their duly authorised servants or agents.

In this Order where a term is defined as singular it shall also apply to the plural and vice versa.

### **3. PRELIMINARY**

- (1) The Council, in making this Order, is satisfied on reasonable grounds that the Activities have carried on, or it is likely that they will be carried on, in Public Places within the New Forest and have had a detrimental effect on the quality of life of those in the locality; namely a substantial risk that the Activities increase the aggression of New Forest Ponies, Horses, Mules or Donkeys towards humans in the locality causing alarm and distress, distress and financial impact on New Forest Commoners where animals are harmed, and the risk of New Forest Ponies, Horses, Mules or Donkeys being withdrawn from the Restricted Area to the detriment of the New Forest Commoners and those who live, work or visit the Restricted Area and physical harm or worse caused to New Forest Ponies, Horses, Mules or Donkeys and that the effect, or likely effect, of the Activities—
  - (a) is, or is likely to be, of a persistent or continuing nature,
  - (b) is, or is likely to be, such as to make the Activities unreasonable, and
  - (c) justifies the restrictions imposed by this Order.
- (2) The Council is satisfied that the Prohibition and the Requirements imposed by this Order are reasonable to impose to prevent the detrimental effect of these Activities from continuing, occurring or recurring, or to reduce that detrimental effect or to reduce the risk of their continuance, occurrence or recurrence.
- (3) This Order should be read in conjunction with Schedule 1 and attached maps.

### **4. DURATION OF THIS ORDER**

This Order shall come into effect at midnight on **xxxx** for a period of three years, unless extended.

### **5. APPLICATION**

This Order applies at all times, to all persons within the Restricted Area subject to the Exceptions listed in Article 8.

### **6. PROHIBITION**

- (1) A person shall not engage in any of the Activities within the Restricted Area (“the Prohibition”).
- (2) The Prohibition is subject to the Exceptions in Article 8.

### **7. REQUIREMENTS**

- (1) Where an Authorised Officer has reasonable grounds to believe that any person within the Restricted

Area has acted, is acting, or is likely to act, contrary to this Order, they shall, if and as required by an Authorised Officer, terminate the Activities.

(2) If any person within the Restricted Area has in their possession any item which an Authorised Officer has reasonable grounds to believe is being, or is likely to be used in conjunction with the Activities contrary to this Order, they shall, if and as required by an Authorised Officer, surrender the item to an Authorised Officer.

(3) The Requirements are subject to the Exceptions in Article 8.

## **8. EXCEPTIONS**

(1) This Order shall not apply to:

- (a) any person who is a New Forest Commoner and owner of a New Forest Pony, Horse, Mule or Donkey, or their duly authorised servant or agent; or
- (b) an Agister.

## **9. OFFENCE**

(1) Section 67 of the Act states that it is an offence for a person without reasonable excuse to:

- (a) do anything that the person is prohibited from doing by this Order, or
- (b) fails to comply with a requirement to which the person is subject under this Order.

(2) A person who is guilty of an offence shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) A person does not commit an offence by failing to comply with a prohibition or requirement that the Council did not have the power to include in the public space protection order.

## **10. FIXED PENALTY NOTICES**

(1) An Authorised Officer may issue a fixed penalty notice to anyone they have reason to believe has committed an offence under this Order. Such notice offers the person to whom it is issued the opportunity to discharge their liability to conviction for the offence by payment of a fixed penalty.

(2) The penalty is set at £100.00 to be paid within 28 days but is reduced to £75.00 if paid within 14 days.

## **11. CHALLENGING THE VALIDITY OF THIS ORDER**

(1) An Interested Person may question the validity of this Order on the grounds that:

- (a) the Council has no power to make it or to include particular prohibition or requirement imposed by this Order;
- (b) a requirement of the Act has not been complied with in relation to this Order

(2) An application must be made to the High Court within the period of six weeks beginning with the date on which this Order is made.

Date:

THE COMMON SEAL OF NEW FOREST  
DISTRICT COUNCIL

Was hereto affixed in the presence of:-

}

## **SCHEDULE 1**

The Restricted Area comprises the land within the Perambulation of the New Forest as shown outlined and hatched in blue on the maps attached hereto comprising an overview map (scale 1:100,000) and sheets 1 to 23 (scale 1:20,000).

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# New Forest

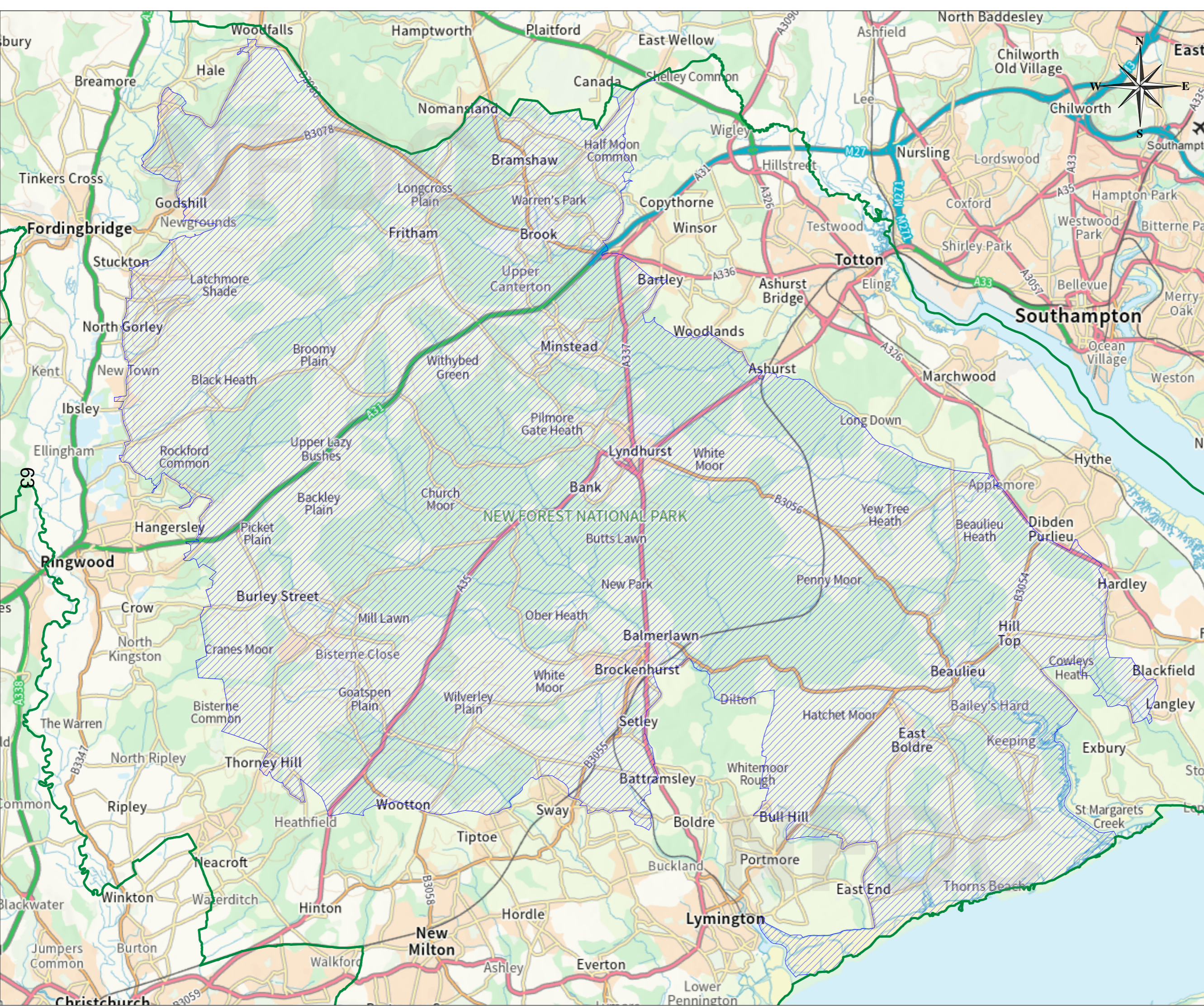
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## THE NEW FOREST PUBLIC SPACES PROTECTION ORDER 2022 (NO.2)

Overview Map

-  Restricted Area
-  District Boundary



Scale 1:100000

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# New Forest

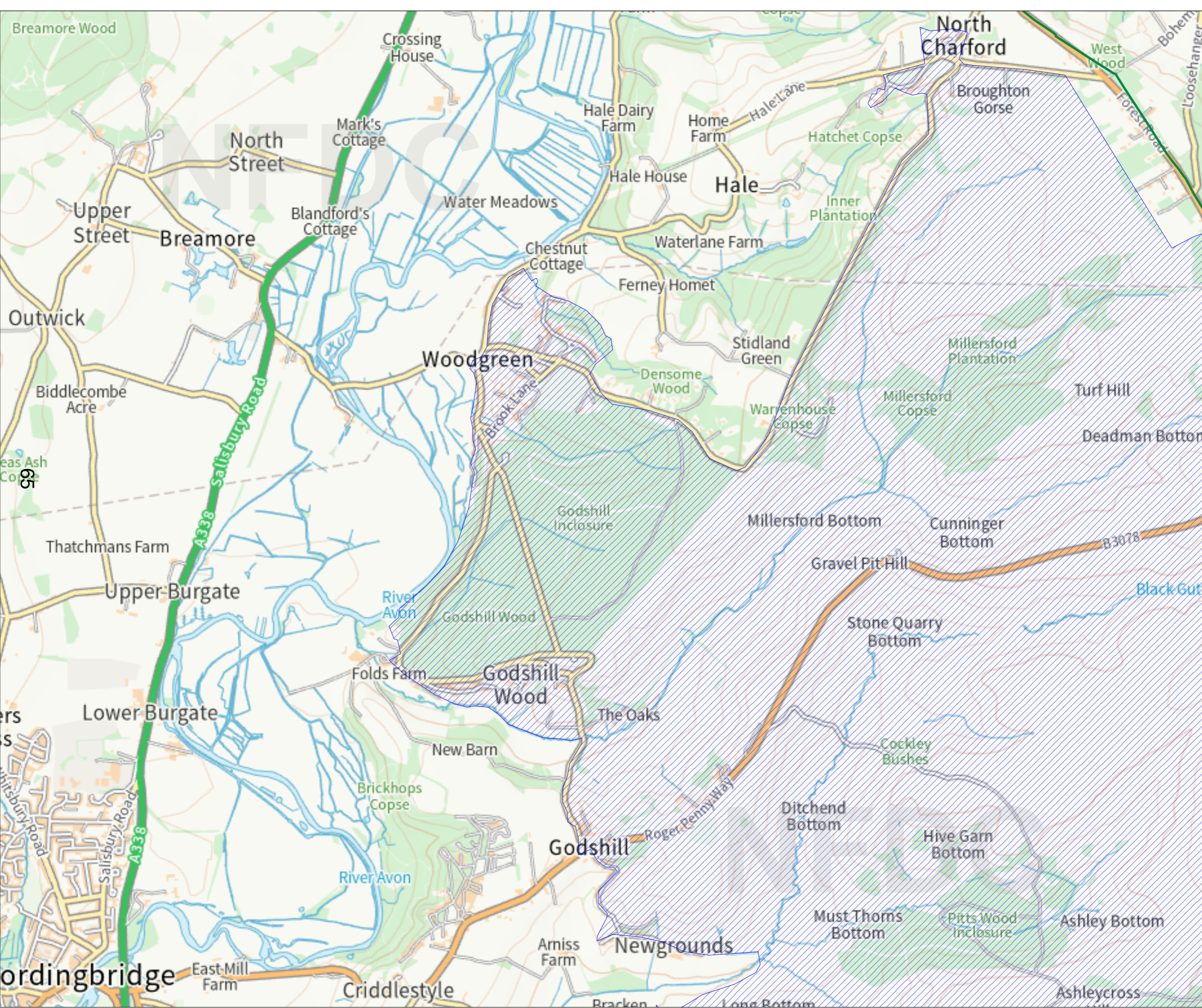
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## THE NEW FOREST PUBLIC SPACES PROTECTION ORDER 2022 (NO.2)

-  Restricted Area
-  District Boundary

Sheet: 1



Scale 1:20000

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# New Forest

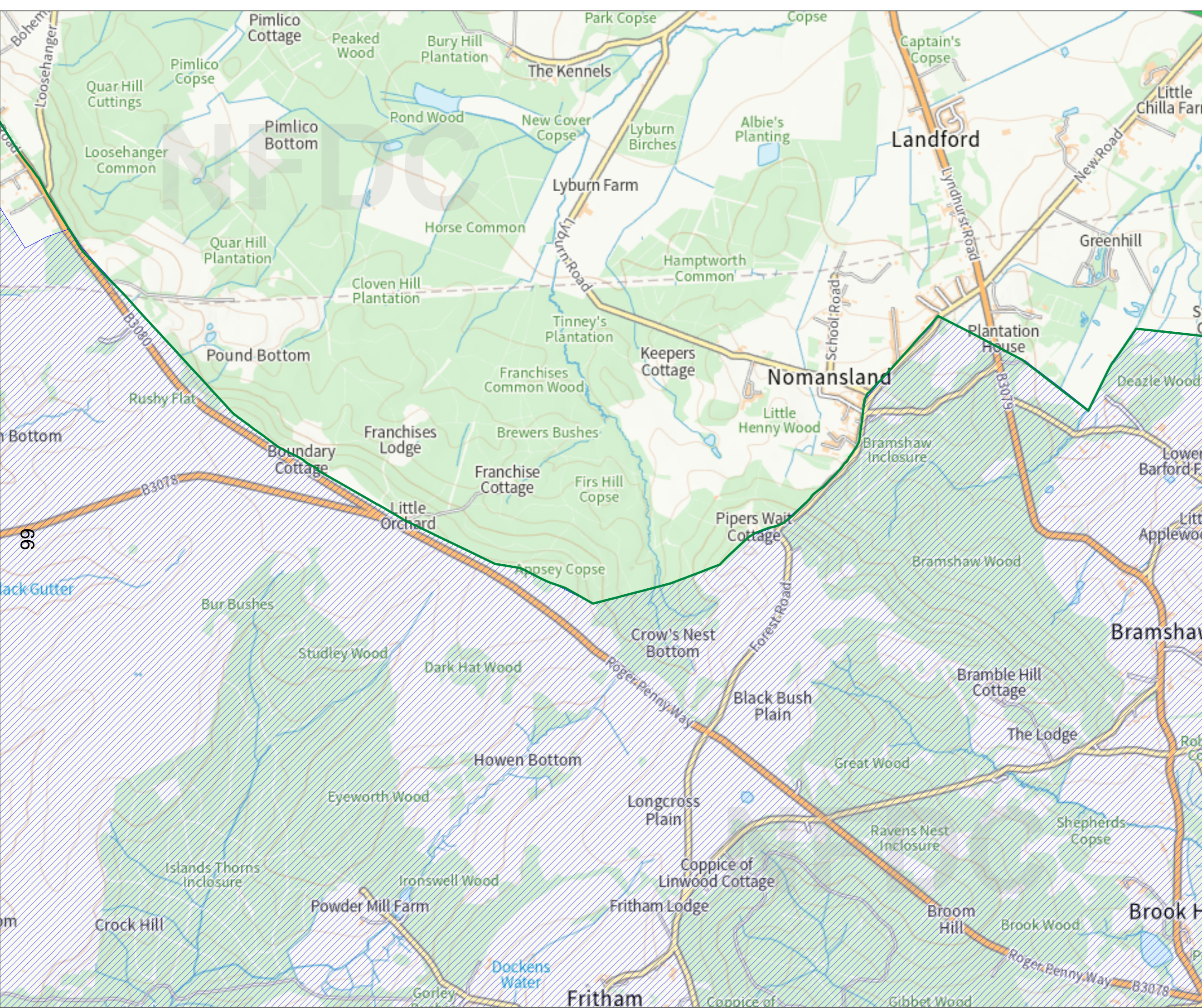
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## THE NEW FOREST PUBLIC SPACES PROTECTION ORDER 2022 (NO.2)

-  Restricted Area
-  District Boundary

Sheet: 2



Scale 1:20000





# New Forest

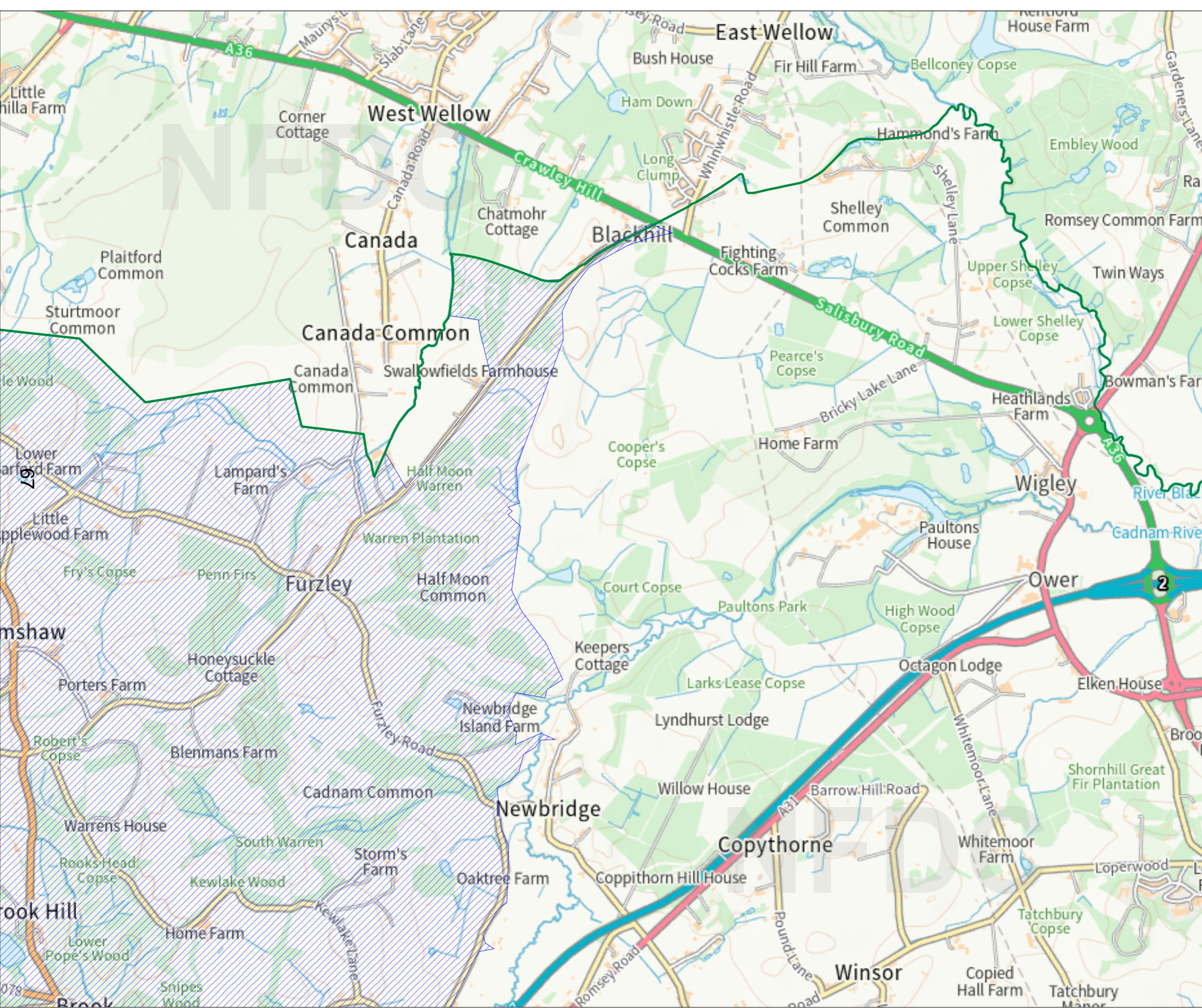
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## THE NEW FOREST PUBLIC SPACES PROTECTION ORDER 2022 (NO.2)

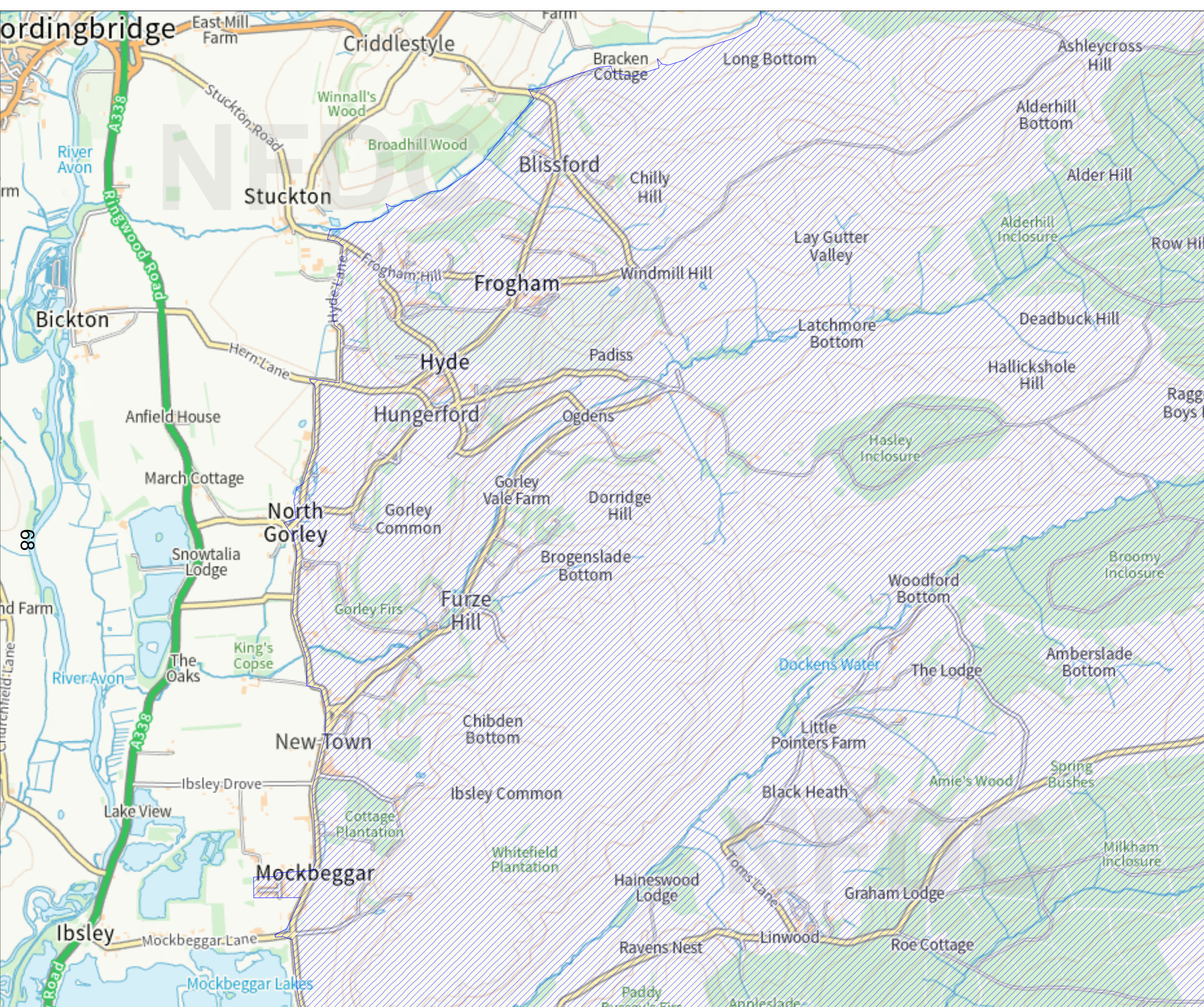
-  Restricted Area
-  District Boundary

Sheet: 3



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## THE NEW FOREST PUBLIC SPACES PROTECTION ORDER 2022 (NO.2)

-  Restricted Area
-  District Boundary

Sheet: 4

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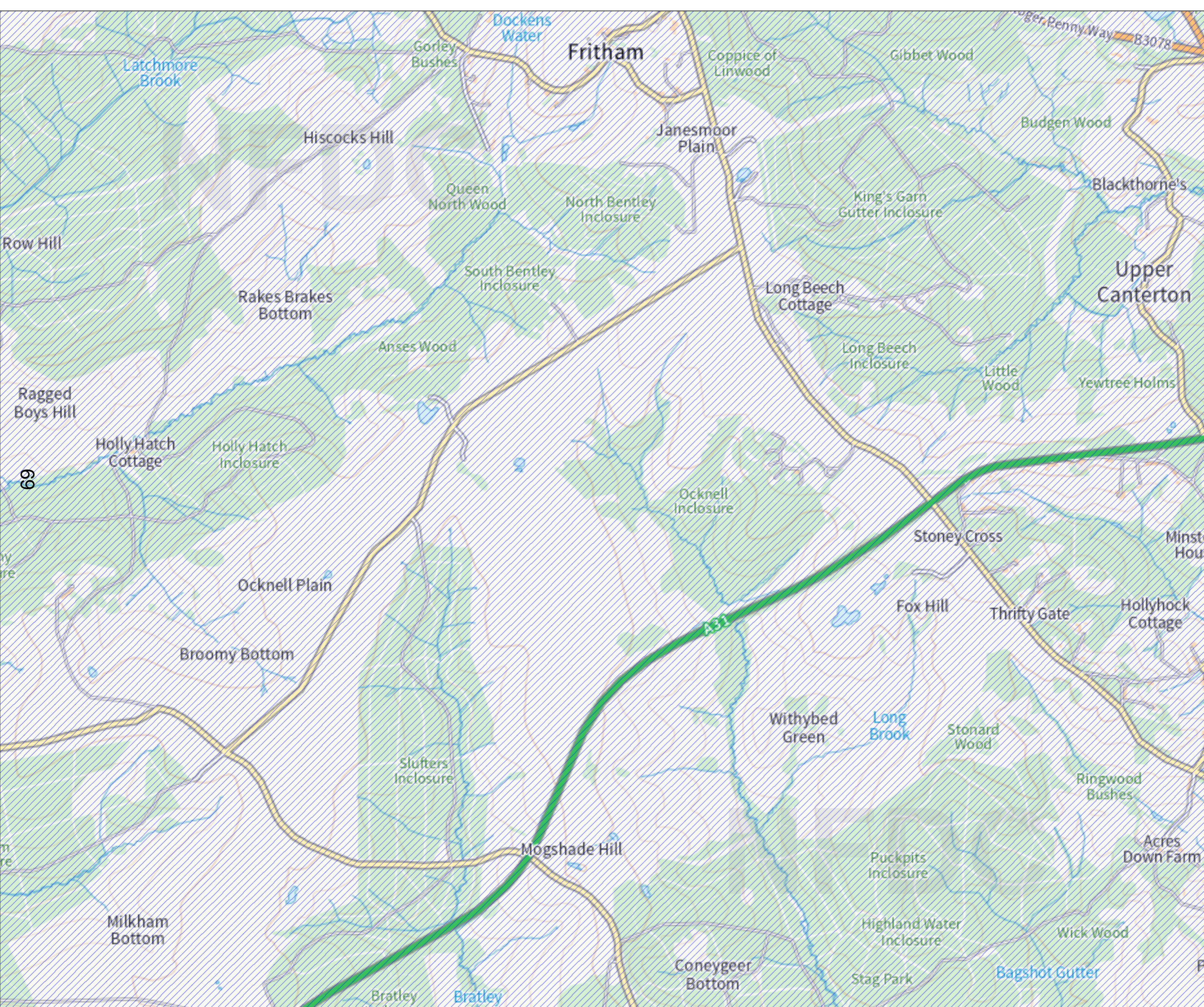
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-  Restricted Area
-  District Boundary

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# New Forest

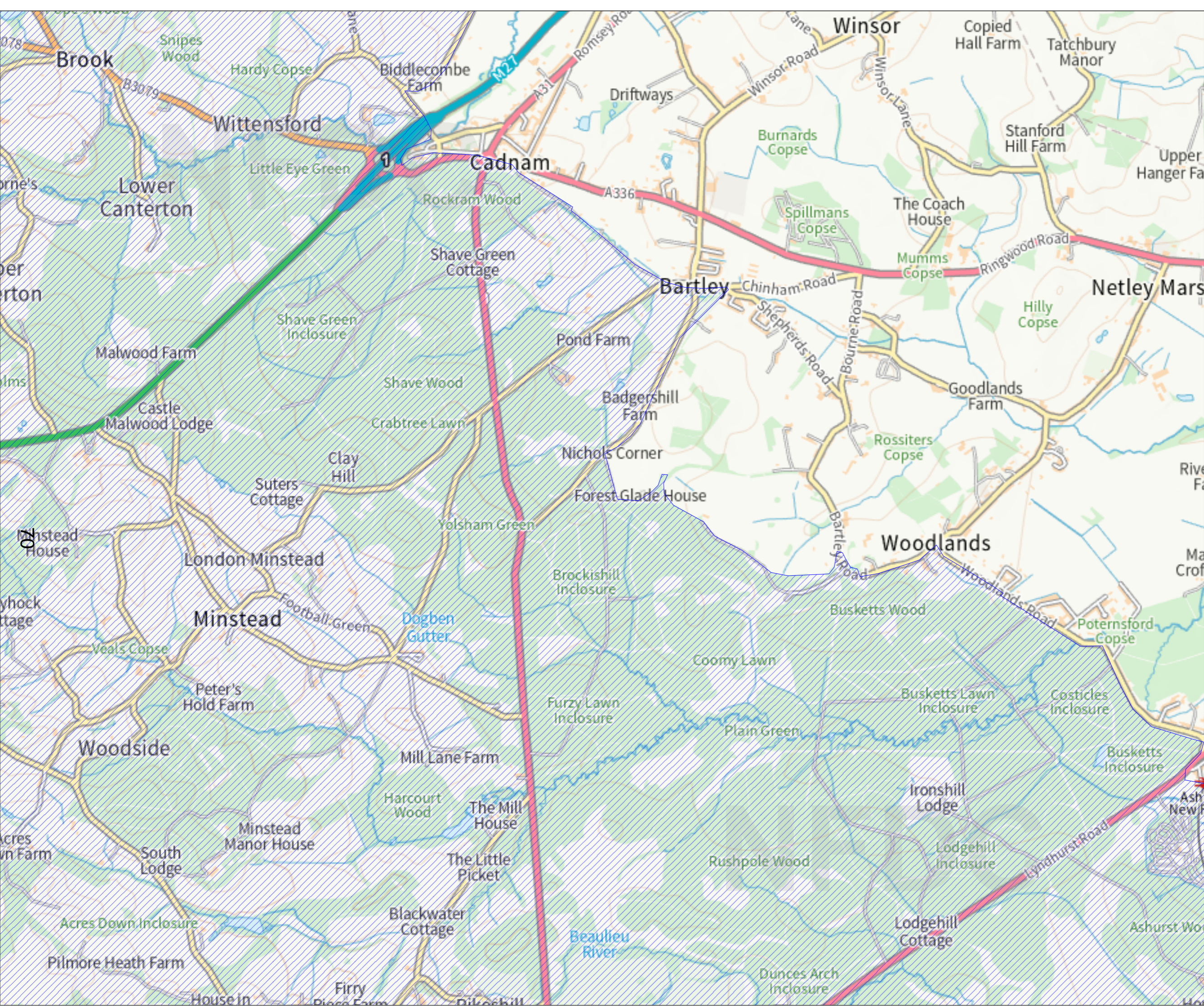
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-  Restricted Area
-  District Boundary

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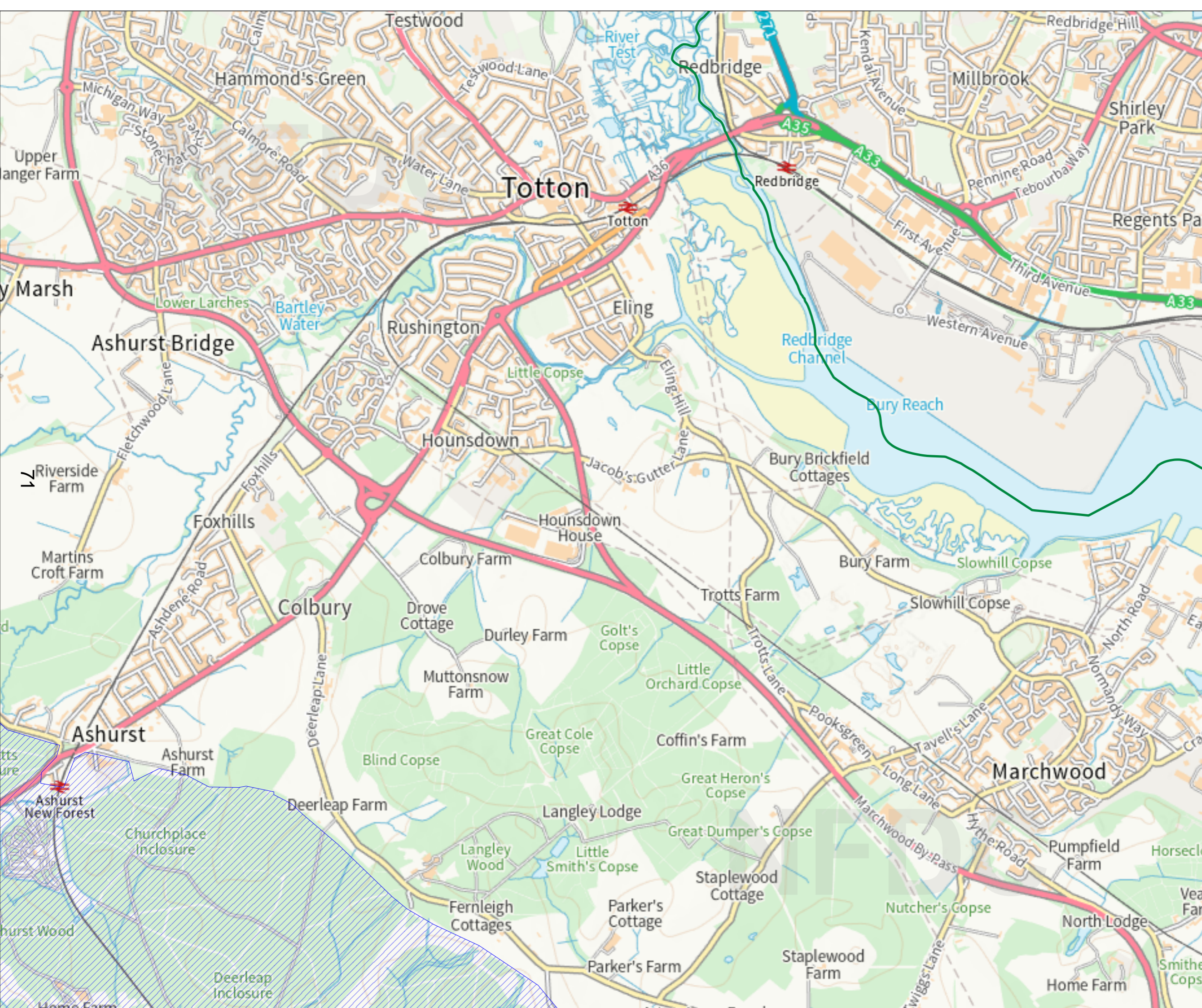
## THE NEW FOREST PUBLIC SPACES PROTECTION ORDER 2022 (NO.2)

-  Restricted Area
-  District Boundary

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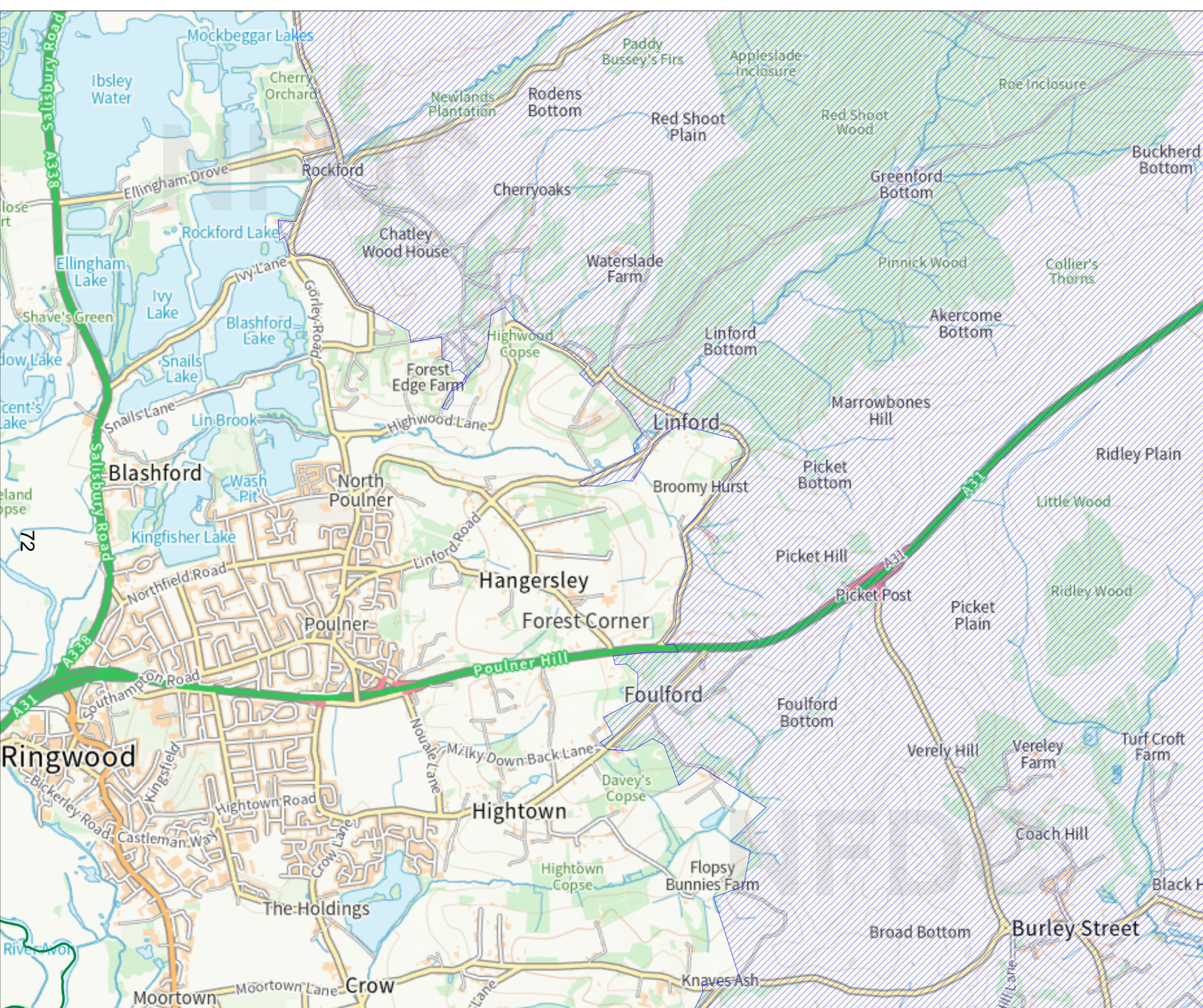
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-  Restricted Area
-  District Boundary

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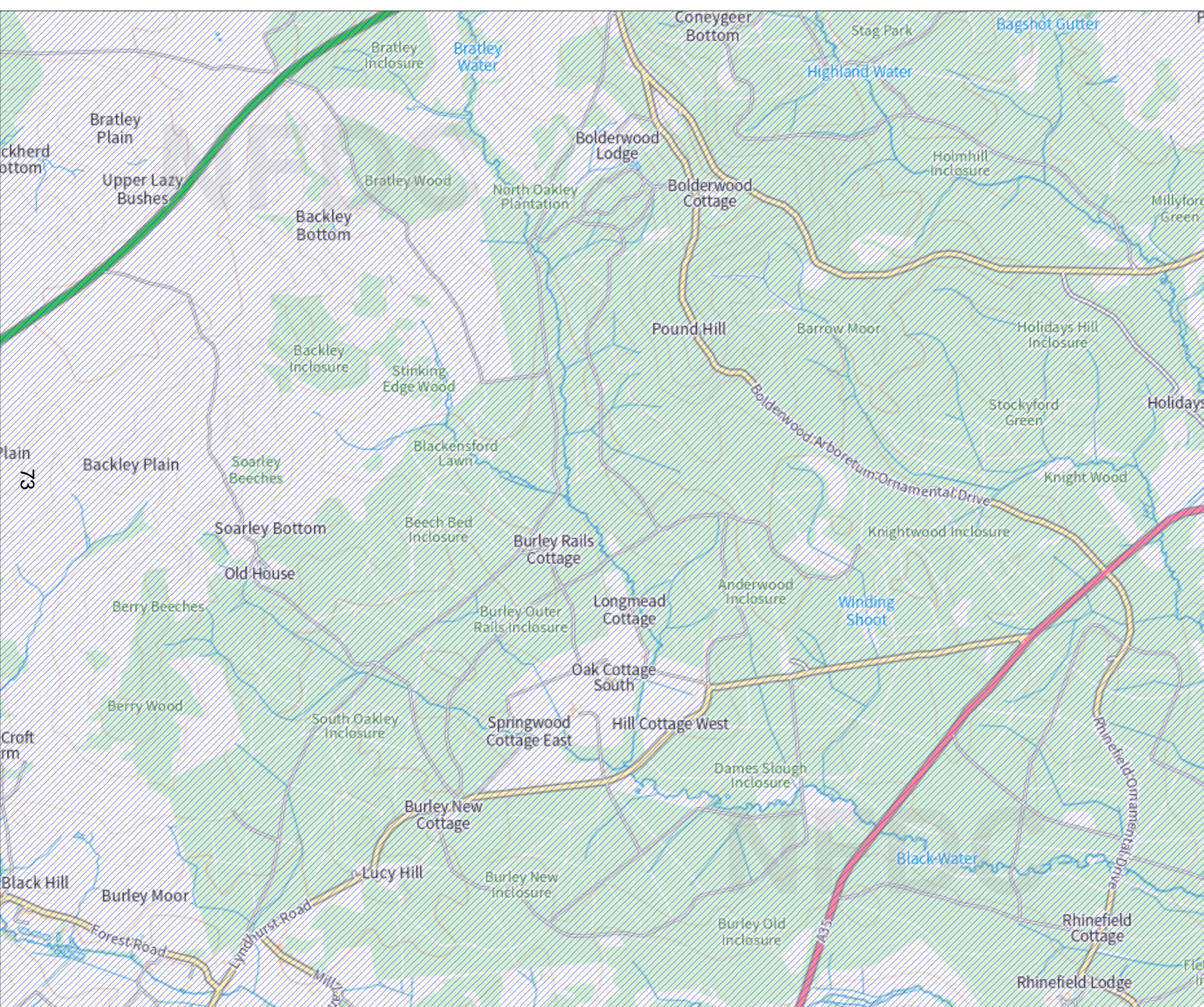




THE NEW FOREST  
PUBLIC SPACES PROTECTION  
ORDER 2022 (NO.2)

-  Restricted Area
-  District Boundary

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# New Forest

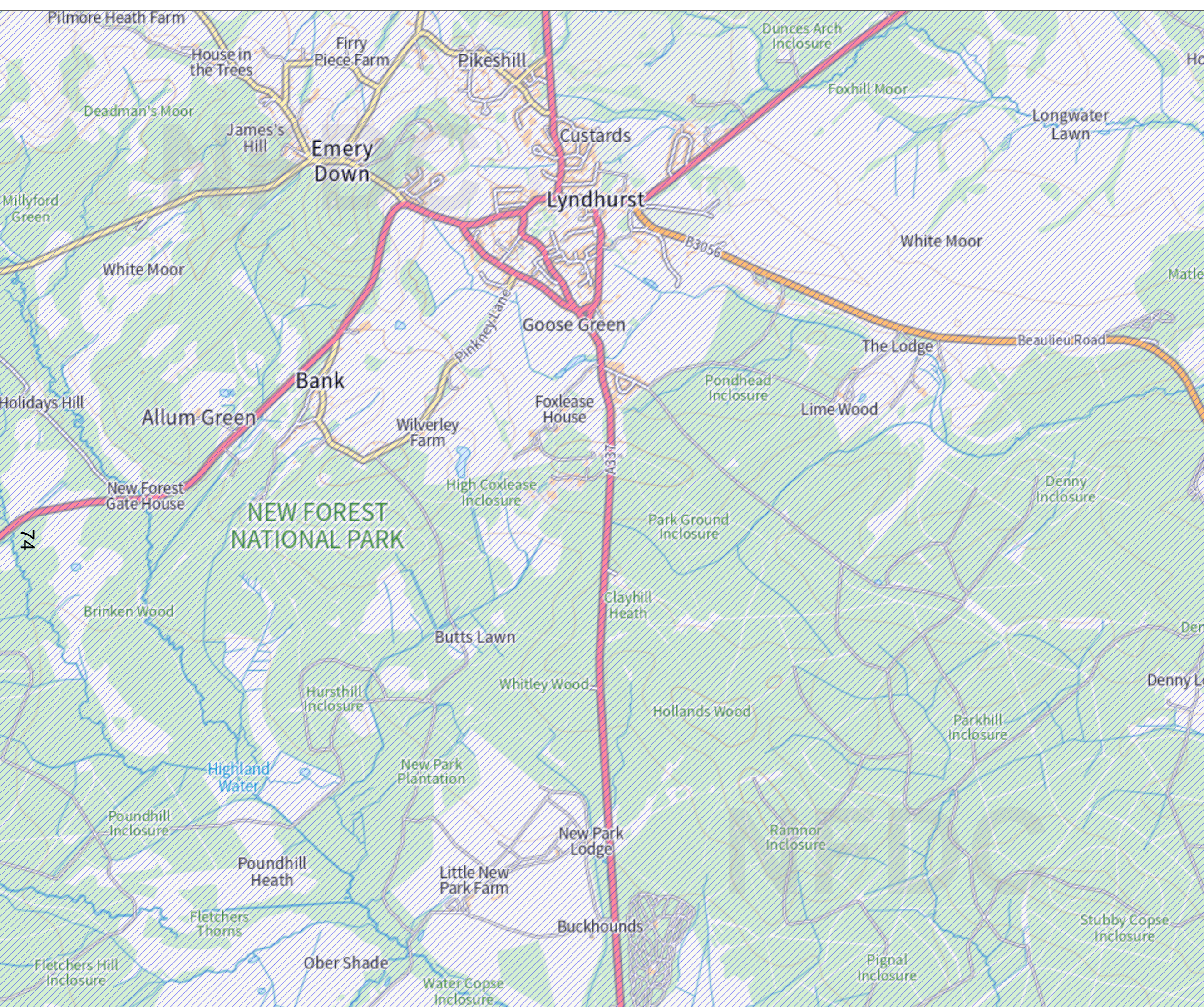
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## THE NEW FOREST PUBLIC SPACES PROTECTION ORDER 2022 (NO.2)

-  Restricted Area
-  District Boundary

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# New Forest

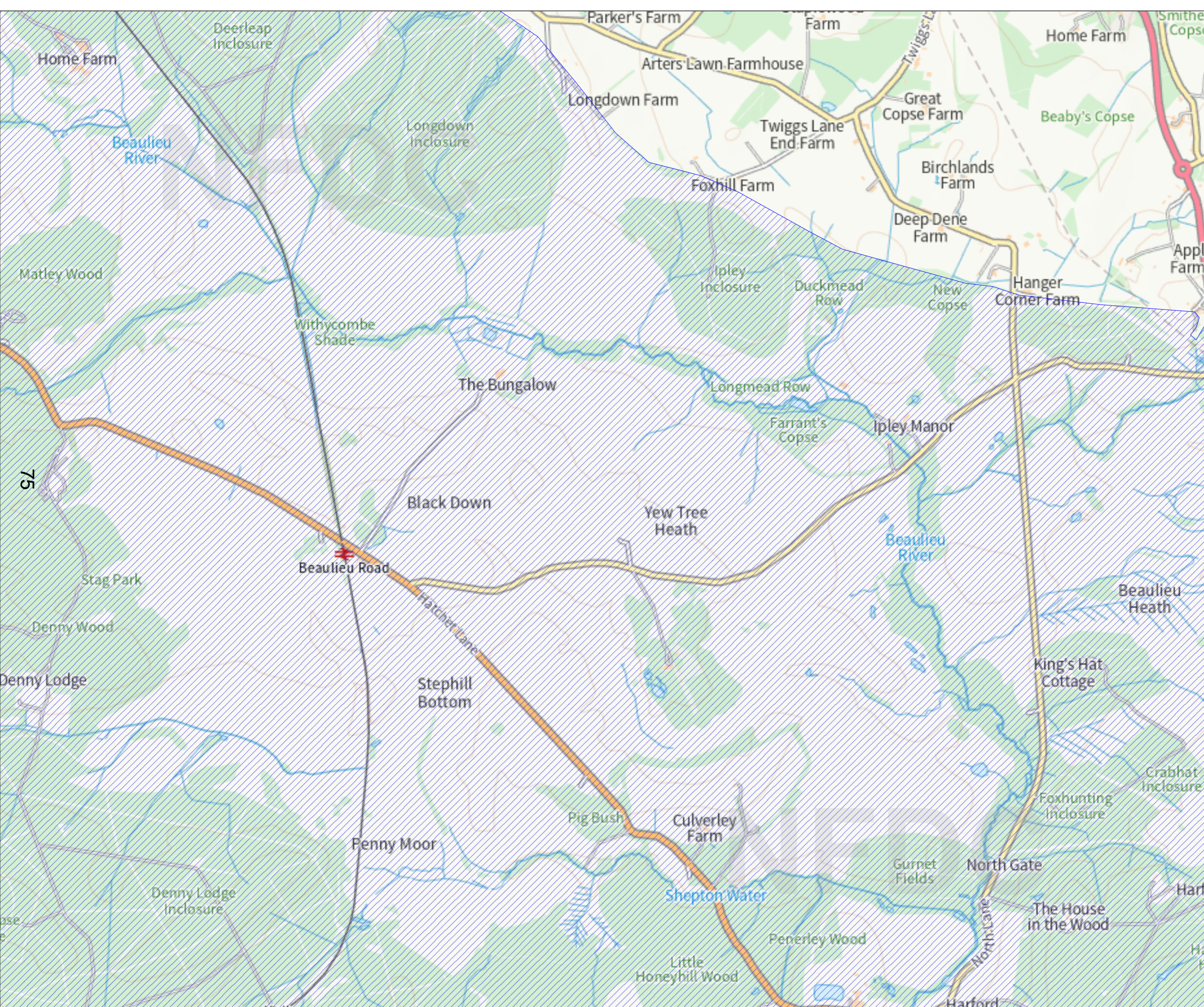
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## THE NEW FOREST PUBLIC SPACES PROTECTION ORDER 2022 (NO.2)

-  Restricted Area
-  District Boundary

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# New Forest

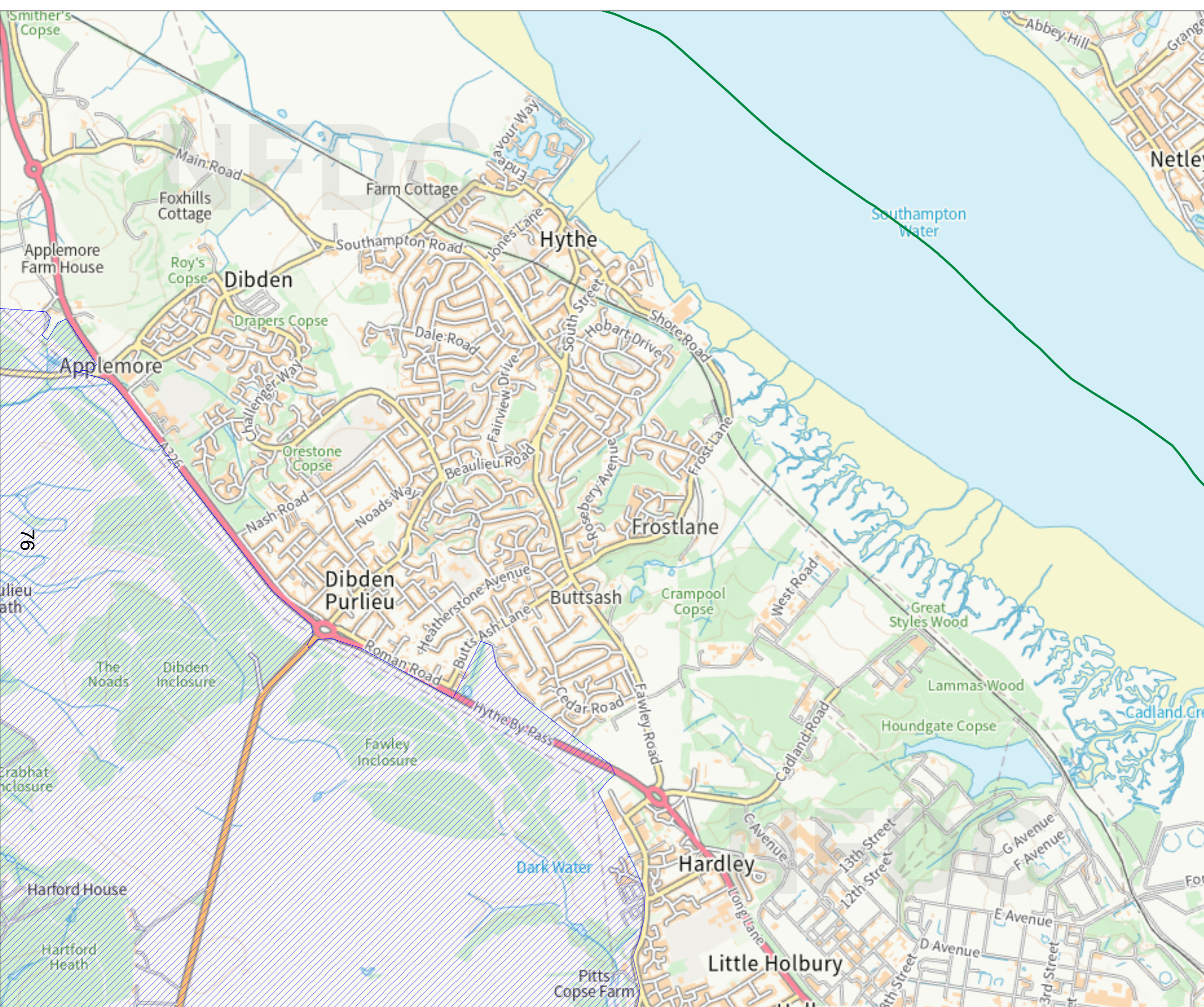
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## THE NEW FOREST PUBLIC SPACES PROTECTION ORDER 2022 (NO.2)

-  Restricted Area
-  District Boundary

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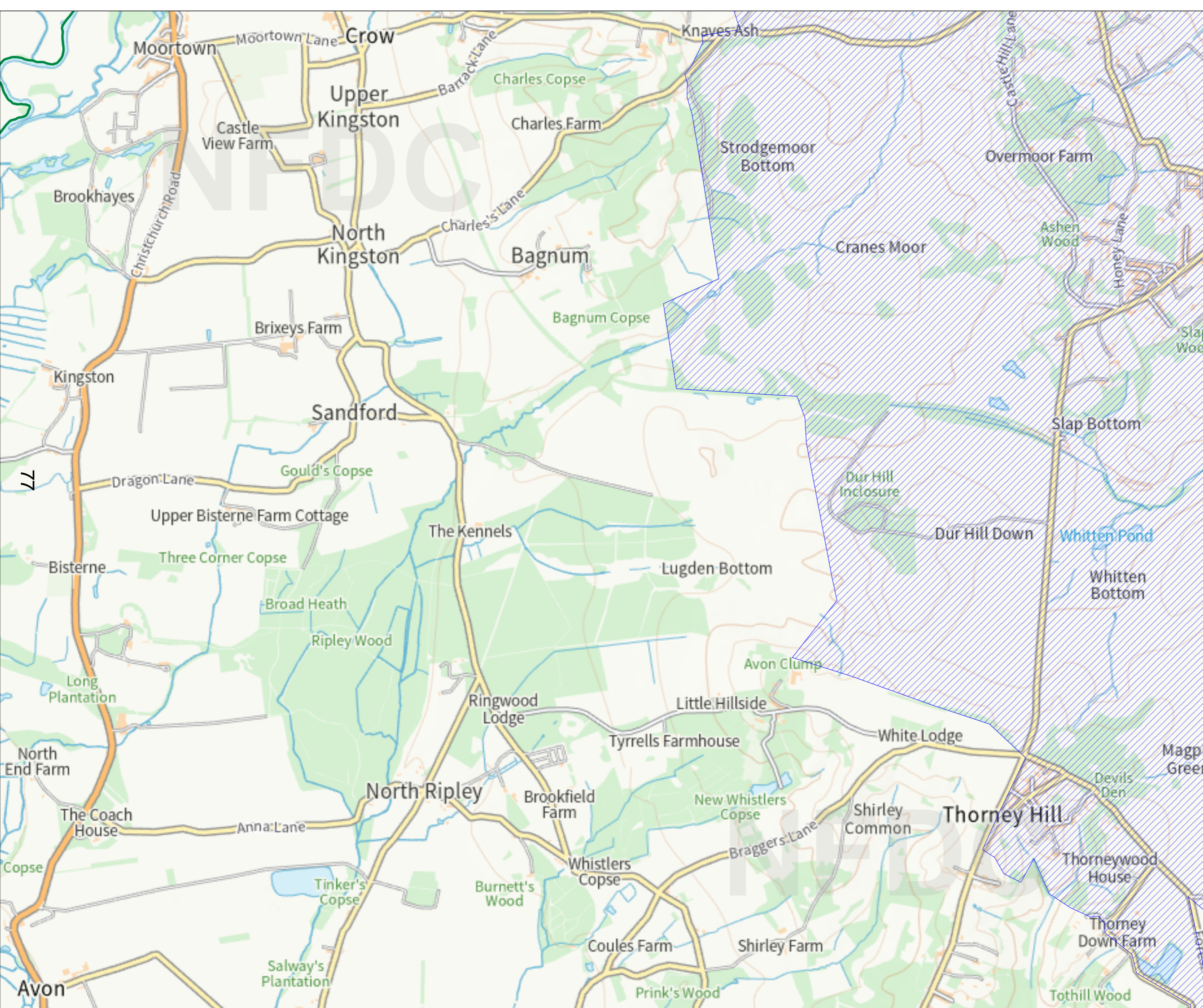
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THE NEW FOREST  
PUBLIC SPACES PROTECTION  
ORDER 2022 (NO.2)

-  Restricted Area
-  District Boundary



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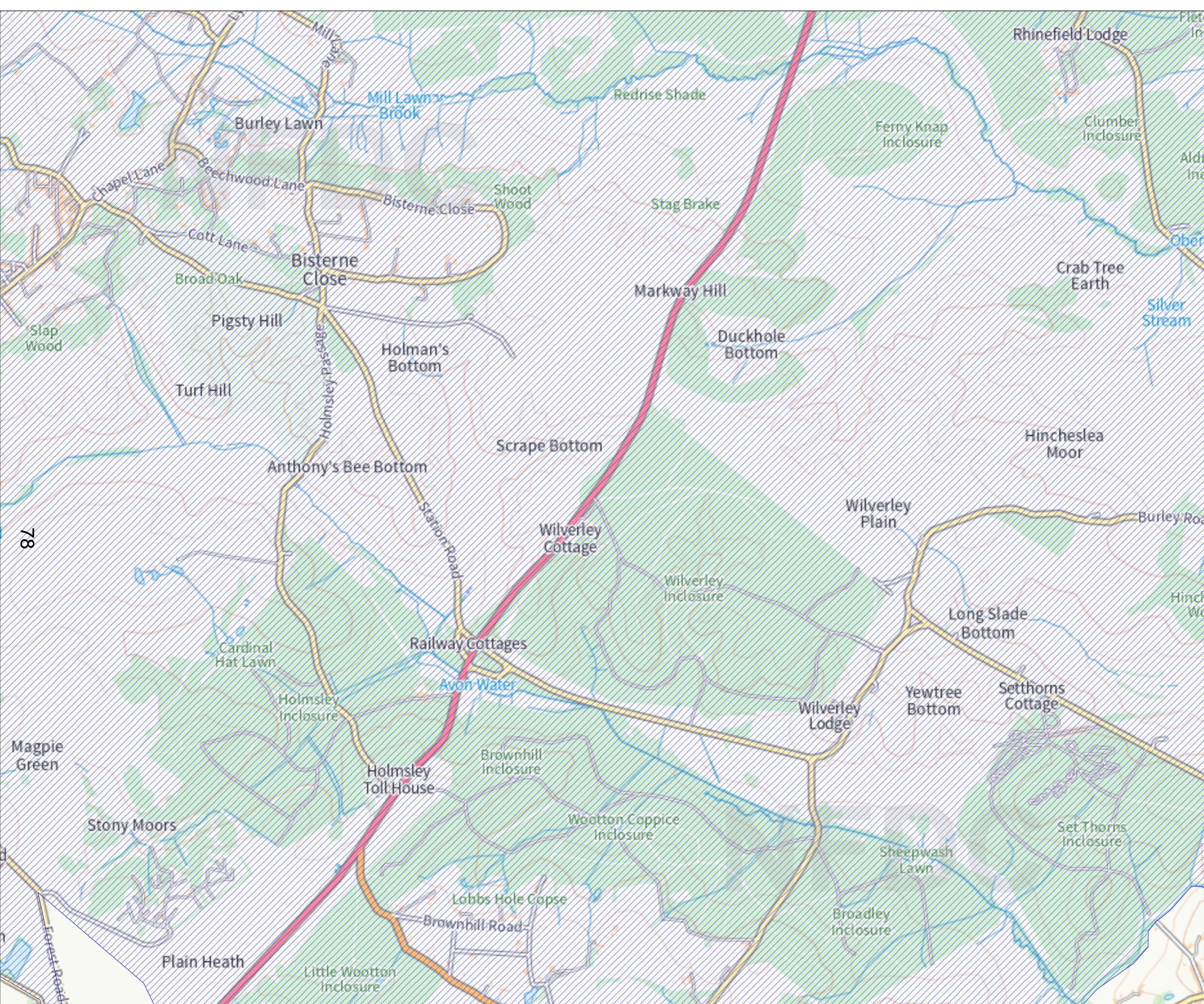
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THE NEW FOREST  
PUBLIC SPACES PROTECTION  
ORDER 2022 (NO.2)

-  Restricted Area
-  District Boundary

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# New Forest

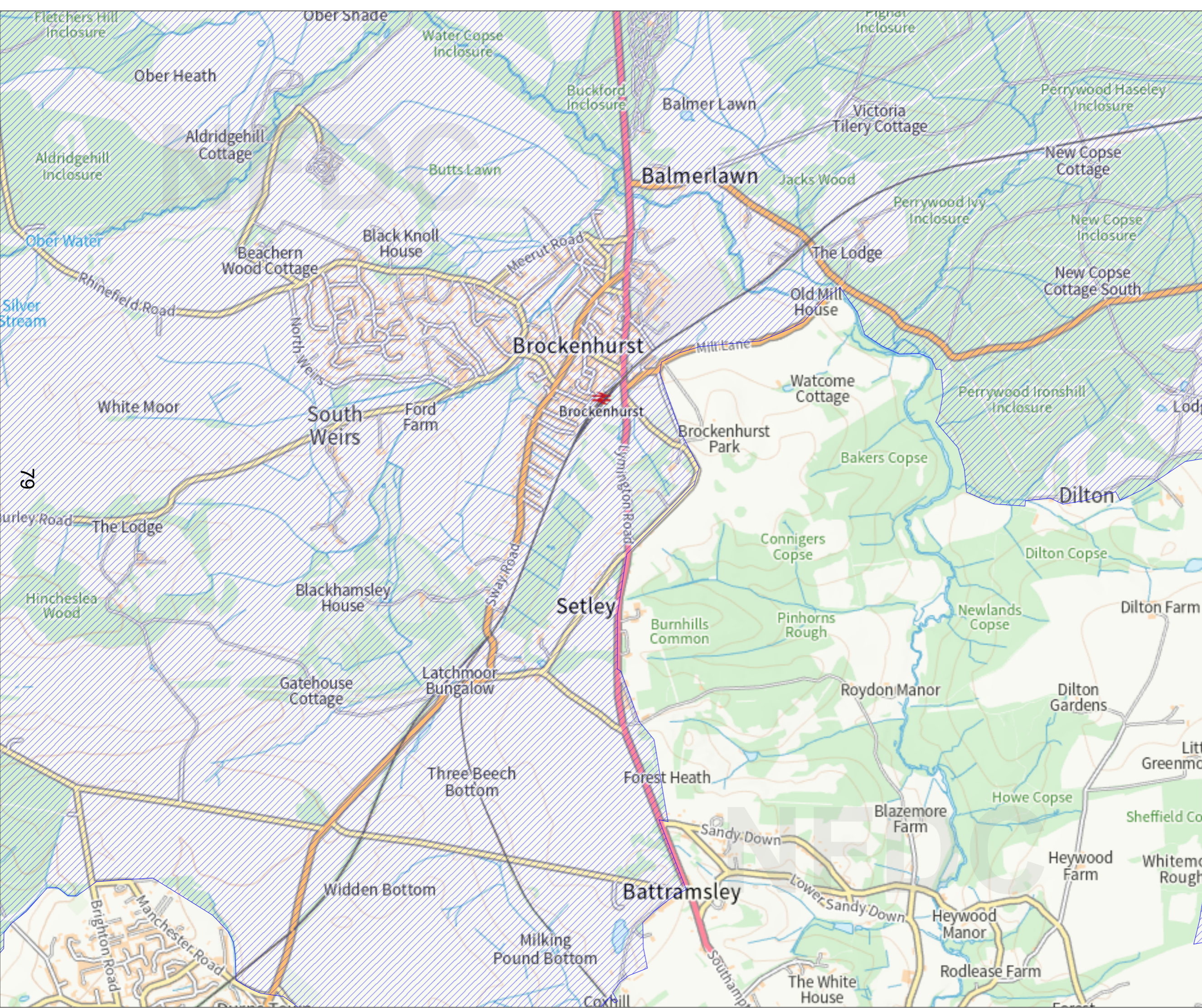
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-  Restricted Area
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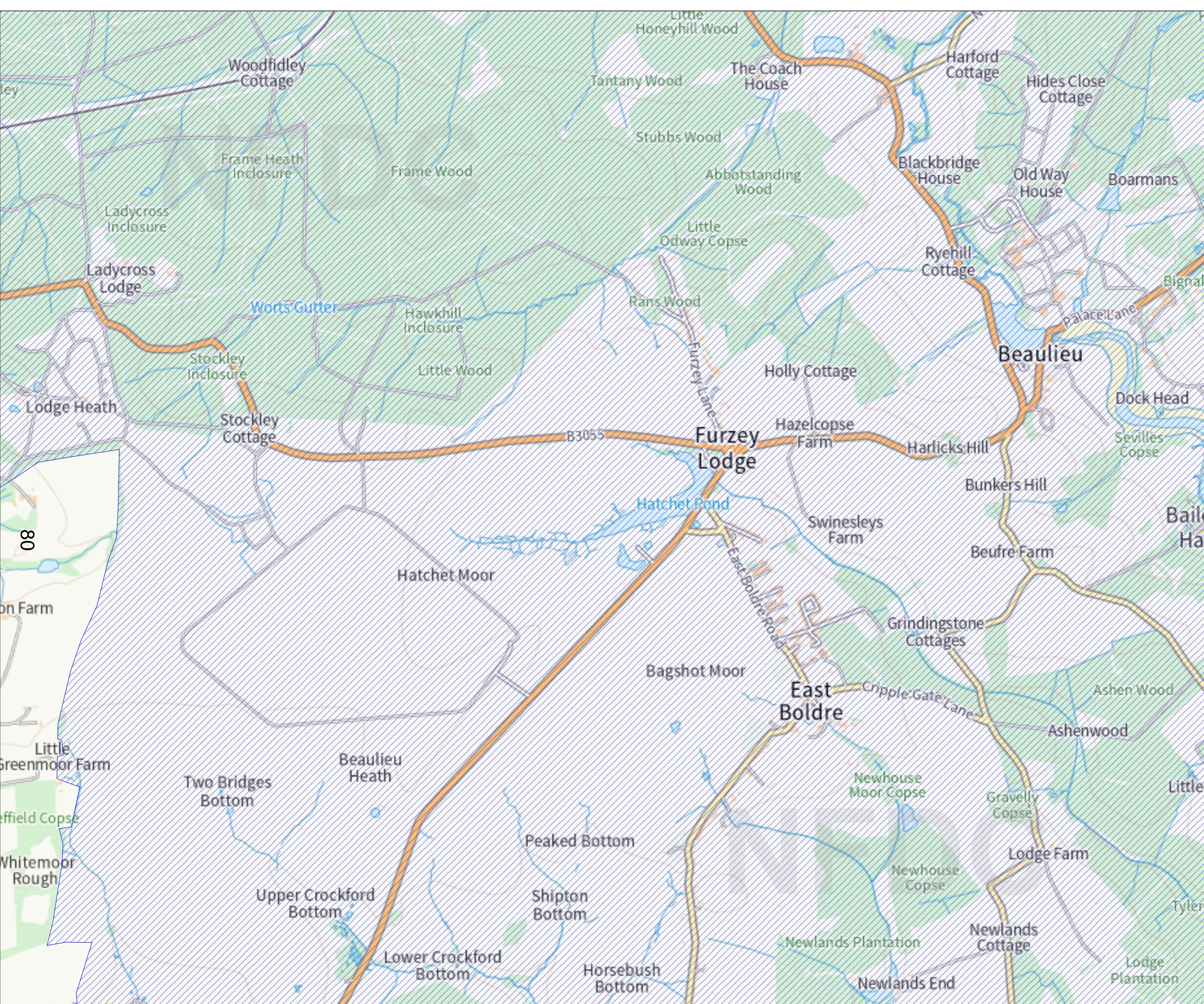
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-  Restricted Area
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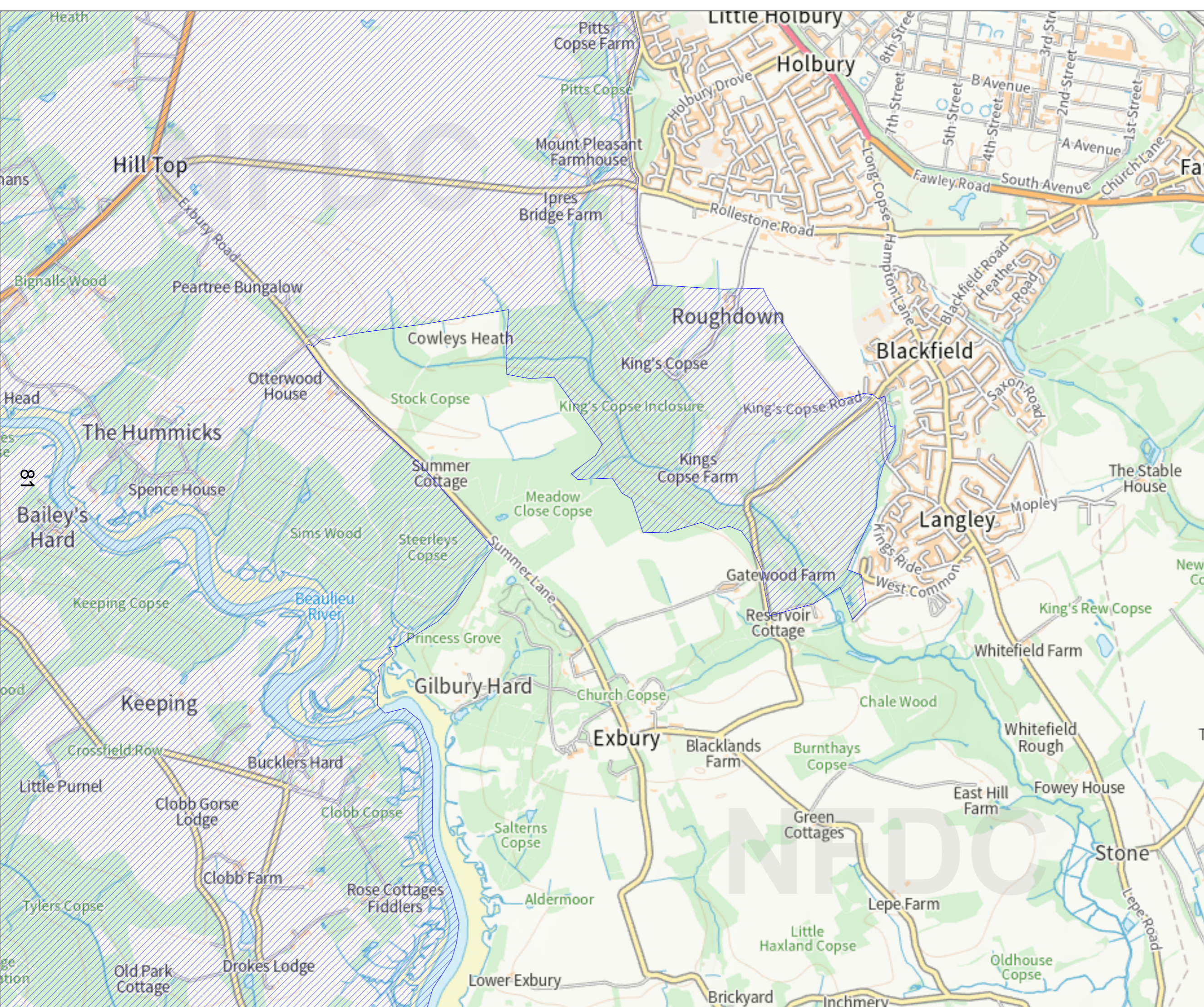
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-  Restricted Area
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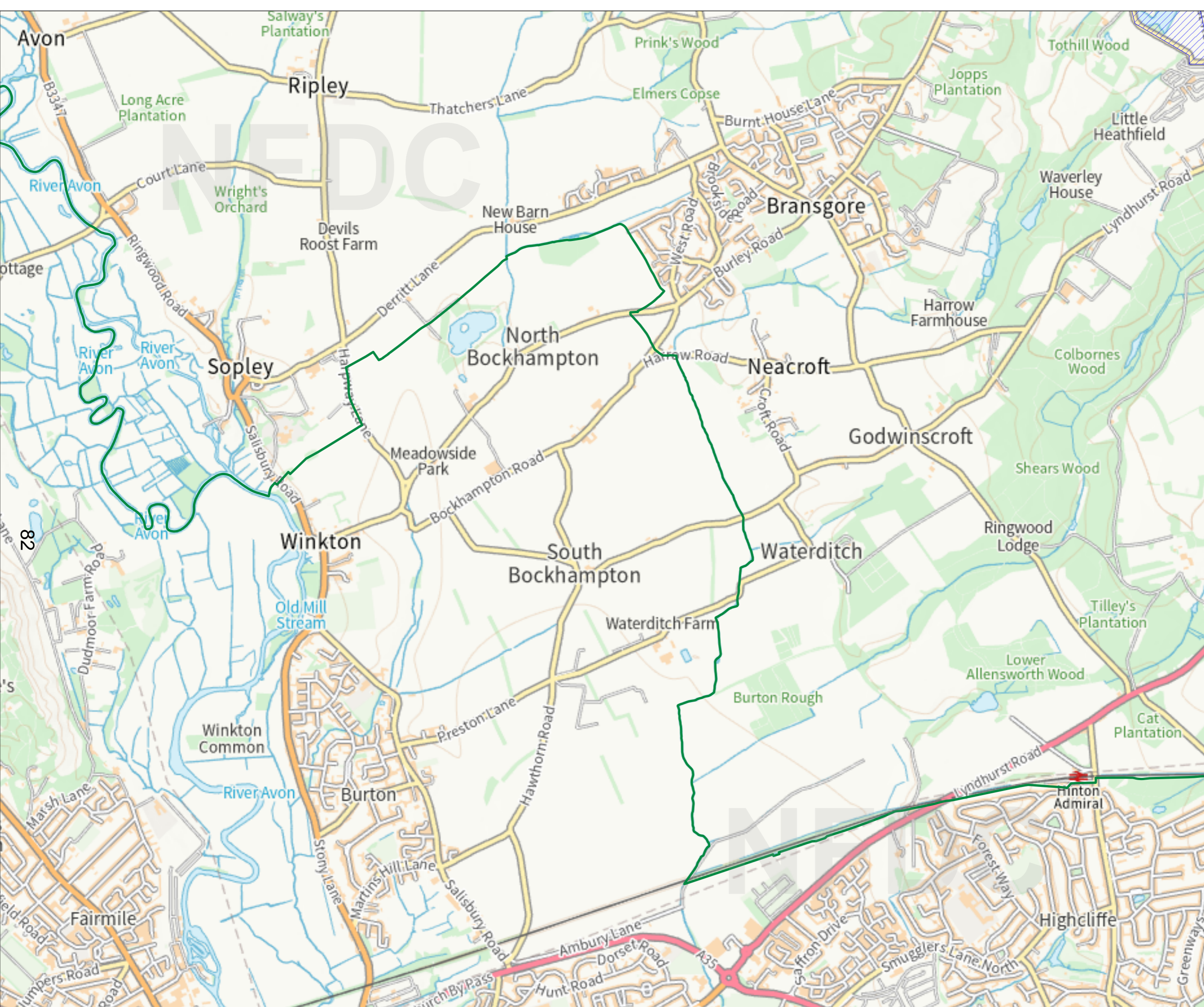
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ORDER 2022 (NO.2)

-  Restricted Area
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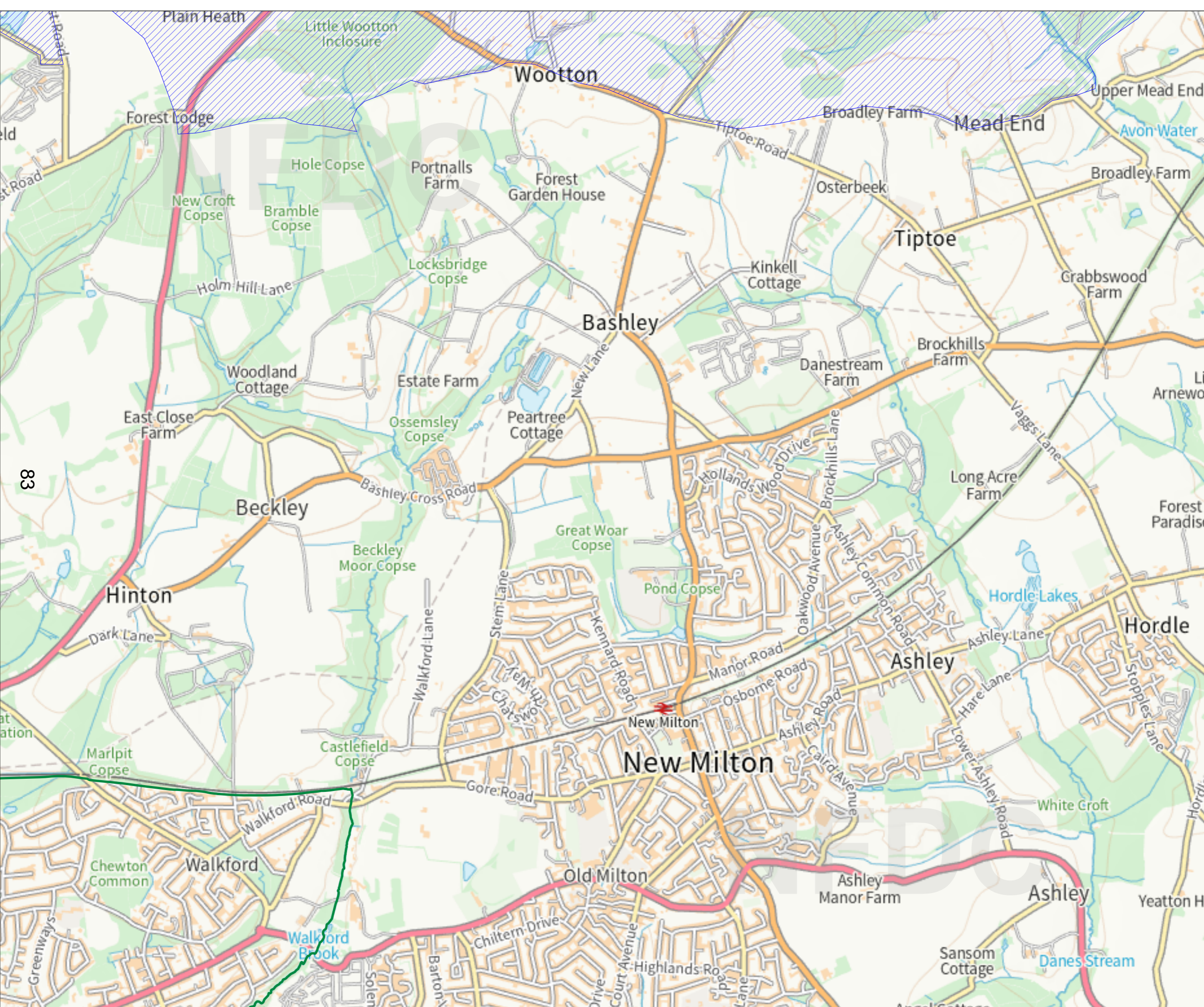


THE NEW FOREST  
PUBLIC SPACES PROTECTION  
ORDER 2022 (NO.2)

-  Restricted Area
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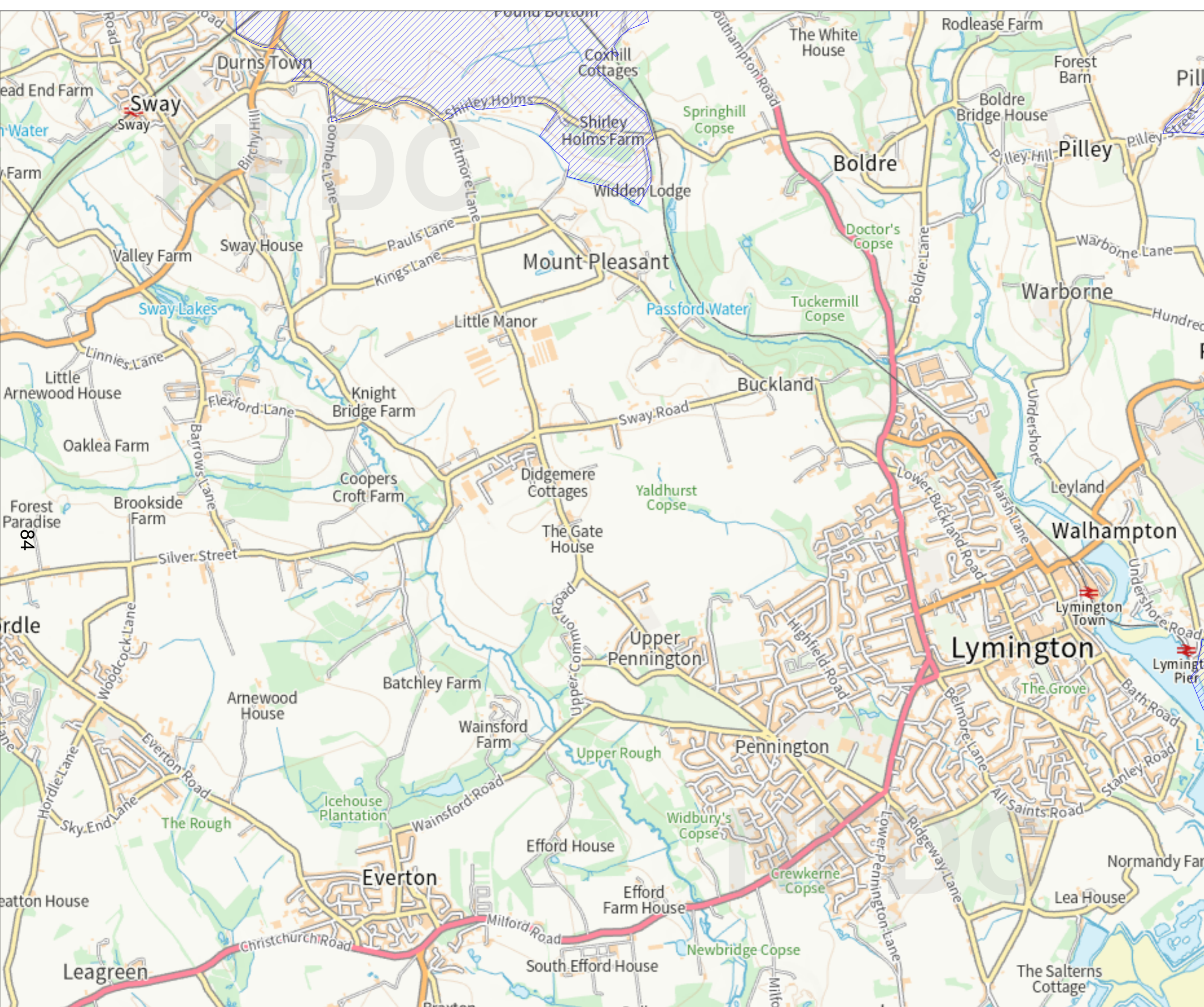
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-  Restricted Area
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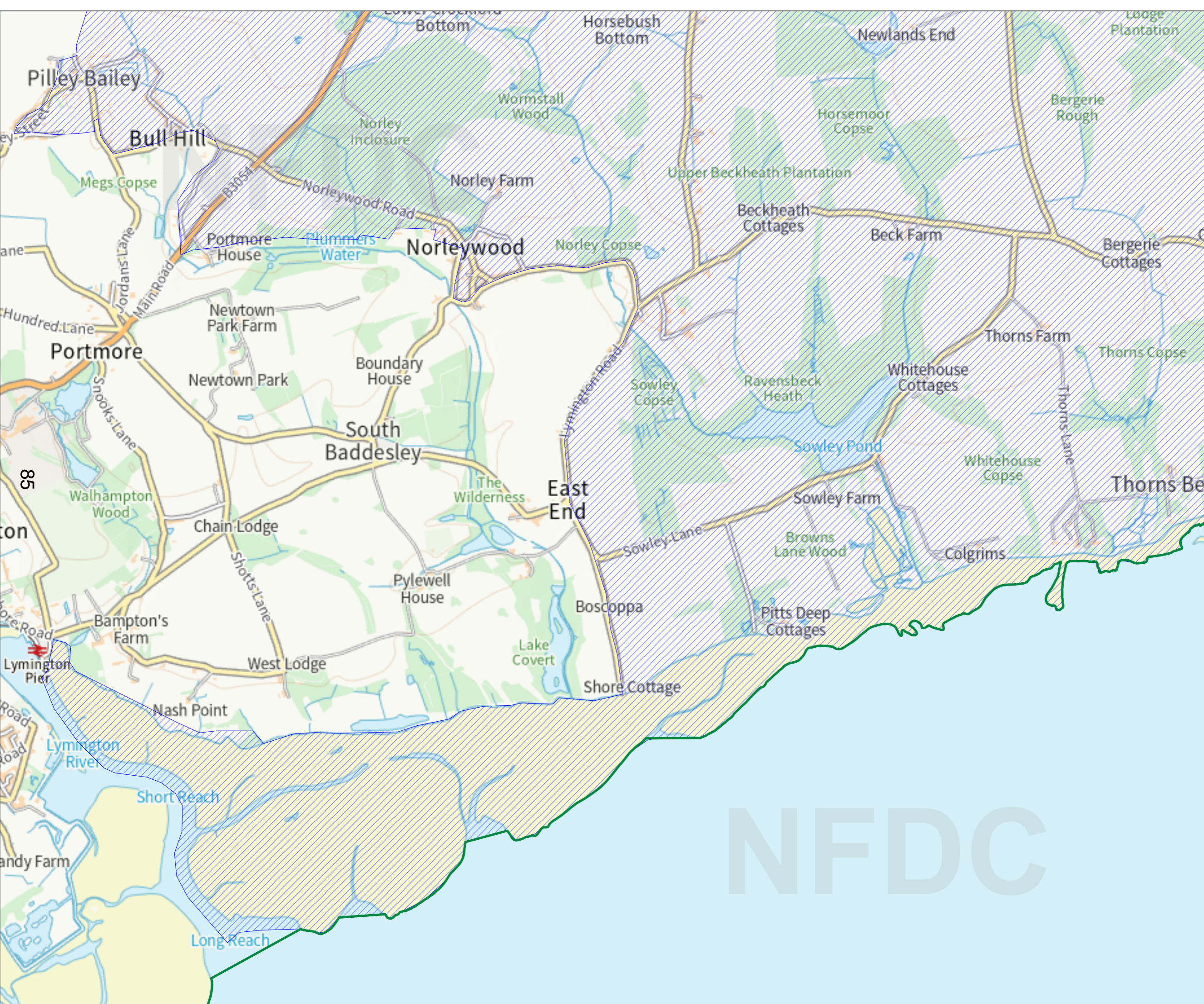
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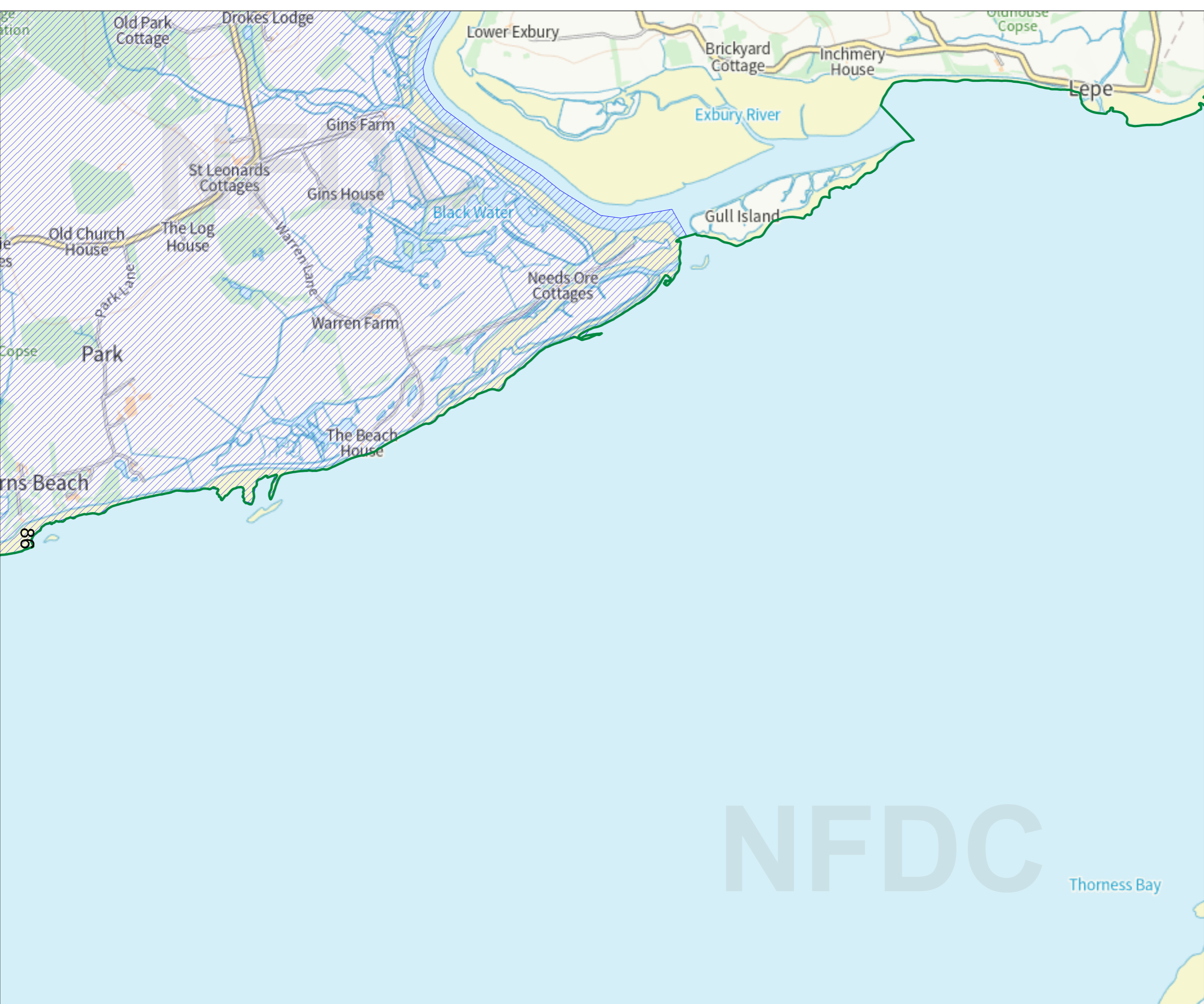
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THE NEW FOREST  
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ORDER 2022 (NO.2)

-  Restricted Area
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Sheet: 22

NFDC

Thorness Bay

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## UPDATE ON S106 DEVELOPER CONTRIBUTIONS

### 1. RECOMMENDATION

- 1.1 That the Cabinet notes the contents of the report and approves the allocation of £200,000 transport contribution to deliver a footpath to the northeast of the Linden Homes Development on Crow Lane Ringwood.

### 2. INTRODUCTION

- 2.1 Prior to the introduction of Community Infrastructure Levy charging at New Forest District Council in April 2015 the Council collected contributions to mitigate the impacts of new developments through a tariff style contribution secured through Section 106 Agreements.

- 2.2 In February 2015 Cabinet approved open space and transport projects for the unspent developer contributions. These projects were in the areas where development had occurred. There had been extensive consultation with members, town and parish Councils to agree the projects. Monies were allocated to open space projects to be delivered by town and parish councils. At the time, the District Council could deliver the transport projects under the Agency Agreement that existed with the County Council. A further contribution was collected after the 2015 report which was from the Linden Homes development in Ringwood. The table below shows the spend over the period since the 2015 report excluding habitat mitigation.

	Open Space		Transportation		Open Space Maintenance		Drainage		TOTAL
	£'000		£'000		£'000		£'000		£'000
	(Spent) / +Received	Balance Held	(Spent) / +Received	Balance Held	(Spent) / +Received	Balance Held	(Spent) / +Received	Balance Held	Balance Held
Balance 31/3/15		<b>2,800</b>		<b>1,600</b>		<b>173*</b>		<b>75</b>	<b>4,648</b>
Activity between 2016/2021	(1,531)	<b>1,269</b>	+500	<b>2,100</b>	(5)	<b>168*</b>	0	<b>75</b>	<b>3,612</b>
Activity 2021/22	(169) +30	<b>1,130</b>	0	<b>2,100</b>	(5)	<b>163*</b>	0	<b>75</b>	<b>3,438</b>
Activity 2022/23 to date	(799) +40	<b>372</b>	(6)	<b>2,094</b>	(63) +40	<b>140*</b>	0	<b>75</b>	<b>2,576</b>

\* Monies held from sites that are still to be transferred to a maintainer; transfers are progressing.

- 2.3 Whilst a significant amount of the money has been spent, most notably from Open Space contributions (from £2.8M held in 2014 to £372,000 held as of end Sept 22) there remains some monies that were allocated to specific projects to be delivered by town and parish Council's which are no longer deliverable. This report seeks authority

to allocate monies to alternative projects that town and parishes have identified as new projects.

### **3. CURRENT POSITION**

- 3.1 In July 2020, the Council adopted the Local Plan 2016-2036 Part One: Planning Strategy. The Local Plan proposes over 10,000 new dwellings over the Plan period. A number of strategic housing sites are identified ranging from 100 to 1400 dwellings. The plan recognises the importance of appropriate infrastructure to support new development via policy STR7 and STR8.
- 3.2 Many of these strategic sites currently have planning applications submitted and as part of this process specific infrastructure provisions will be secured via S106 relevant to those developments. However, the Council is still holding an amount of developer contributions from developments already built. It is important that this money is utilised on relevant projects to ensure that the planning outcomes of the original development are met. There has been considerable work over the past 3 years to spend Section 106 contributions. However there remains some unspent money, the majority of which are contributions relating to open space and sustainable transport improvements.

#### **Open Space**

- 3.3 Since 2015 officers have continued to work with parish and town councils to implement the open space projects for which money was collected, to ensure that the monies have been put to their required use. At the start of this financial year the Council held £1.13m in unspent open space contributions, and over the course of this financial year to date £799k has been utilised on projects.
- 3.4 Officers have met again with representatives from both Hythe and Dibden Parish Council and Totton and Eling Town Council, where most of the remaining funds are due to be utilised. The total of the contributions held for use in these areas account for £197k of the held contributions. Totton and Eling Town Council has been asked on several previous occasions over the past 3 years to confirm the projects that it wants to spend its allocated S106 monies on, however no response has been received. Hythe and Dibden Parish Council has refocused attention following the pandemic on this matter. Both Councils are reviewing the current allocations made and have again been asked to confirm to the District Council a revised project list.

#### **Sustainable Transportation Contributions**

- 3.5 In January 2022, a paper was presented to Environmental and Sustainability Overview and Scrutiny Panel which summarised the results of an audit carried out in 2021 on the transportation allocations made by Cabinet in 2015.
- 3.6 The report concluded that only a small number of projects could still progress. The consultancy arm of Hampshire County Council was appointed to undertake a detailed feasibility study, with the intention being that these projects are implemented during 2023/24 by Hampshire County Council (HCC) as highway authority. It is likely that these works will cost around £500k but officers are currently awaiting full cost details.
- 3.7 Work is currently underway on two LCWIP's covering the whole of the District (one for the Waterside and one for the rest of the District). These Plans will identify walking and cycling projects throughout the District in accordance with Local Transport Note 1/20. Once complete, officers will use the LCWIP's to identify schemes to deliver using the residual monies, for which the remaining £1.6m transportation developer contributions held by the Council could be used to fund. This will be the subject to a further report.



## **4. PROPOSED REALLOCATION OF S106 MONIES**

### **Ringwood Transportation Monies**

- 4.1 In 2020 an allocation of £50k was made to deliver a footpath to the northeast of the Linden Homes Development on Crow Lane Ringwood. These funds were transferred to HCC to deliver the footpath but they are still holding this money.
- 4.2 The scheme was due to be delivered in 2020/21, however HCC have now reviewed the scheme and identified that the original £50k was a considerable underestimate. The works proposed are more complex than initially thought, together with a sharp increase in pricing from contractors. HCC have advised that the scheme will now cost £150k.
- 4.3 Due to the formal gateway process that HCC will need to go through (which will include public consultation on the scheme) it is likely that the works will not start on site until 2024/25.
- 4.4 As there are still some unknowns in relation to the scheme, it is proposed that up to £200k is allocated to this scheme (a further £150k on top of the funds already held by HCC) to ensure there is sufficient budget to deliver the scheme. This money is currently held by the Council as part of the transportation contribution paid as part of the Linden development. After this development, a significant amount of money will remain to deliver further sustainable transport improvements around Ringwood. Officers are in discussion with the Town Council and HCC and are looking at NFDC land around the bus and taxi hub within the town centre for potential improvements.

### **Lymington Open Space Monies**

- 4.5 The Council are currently holding £3,504.90 in unspent open space monies for use in Lymington. A meeting was held with the Town Council in late summer 2022. Following this meeting the Town Council approached officers requesting that this money is allocated to a project at Bath Road to install a bottle refilling station.
- 4.6 The Town Council currently have grant funds but not enough to complete the projects. If these unspent monies were allocated to the project then this would close the funding gap and allow the project to be delivered and use the remaining contribution allocated to Lymington.

## **5. FINANCIAL IMPLICATIONS**

- 5.1 For the proposed allocations, the Council are currently holding all the identified funds to deliver these projects and therefore there would be no direct cost to the Council.
- 5.2 Should the projects not be approved, officers will need to identify further projects to ensure that the contributions held are delivered on suitable schemes.

## **6. CRIME & DISORDER AND, EQUALITY & DIVERSITY IMPLICATIONS**

- 6.1 There are none.

## **7. ENVIRONMENTAL IMPLICATIONS**

- 7.1 The identified proposals bring direct environmental, health and wellbeing and climate change benefits through the provision of new public open space, improving and enabling greater use of existing open space and the creation of new of sustainable walking routes.

## **8. DATA PROTECTION IMPLICATIONS**

8.1 None.

## **9. PORTFOLIO HOLDER COMMENTS**

9.1 I recognise the significant amount of work that has gone into allocating s106 funds and I encourage those town and parish councils that have not identified schemes for their area to do so. This will enable the district council to transfer monies to them to deliver projects that will benefit their communities.

### **For further information contact:**

Claire Upton-Brown  
Executive Head Planning, Regeneration and  
Economy  
023 8028 5345 (option 1)  
Claire.Upton-Brown@nfdc.gov.uk

Dean Brunton  
Planning Implementation and Monitoring  
Team Leader  
023 8028 5454  
Dean.brunton@nfdc.gov.uk

### **Background Papers:**

[Cabinet Paper 4 February 2015 –  
Allocation of Developer Contributions](#)

[Planning and Infrastructure Portfolio  
Holder Decision 9 September 2020 –  
Allocation of developer contributions –  
Ringwood and New Milton](#)

[Cabinet Paper – 5 May 2021 – Adoption of  
the Mitigation for recreational impacts on  
New Forest European Sites:  
Supplementary Planning Document](#)

[Environment and Sustainability Overview  
and Scrutiny Panel 13 January 2022 –  
Review of transportation projects funded  
via developer contributions](#)

## UPDATE ON COMMUNITY INFRASTRUCTURE LEVY

### 1. RECOMMENDATION

- 1.1 That the Cabinet notes the contents of the report and approves £100k of CIL funds to be allocated towards The Football Foundation, Ringwood Project, as set out in section 4 of the report.
- 1.2 That the Cabinet approves a delegation to an Executive Head or Strategic Director, in consultation with the Portfolio Holder for Planning, Regeneration and Infrastructure to commit CIL funds to approved mitigation and infrastructure projects within the confines of the overall agreed approved CIL budget as included within the Council's Capital Programme.

### 2. INTRODUCTION

- 2.1 In April 2015 the Council introduced Community Infrastructure Levy (CIL) charging. Cabinet agreed on the 1 October 2014 that to comply with the Conservation of Habitats and Species Regulations 2010 the first call on any CIL funds will be projects to mitigate the recreational impacts of new residential development on the New Forest National Park. The Council, as Competent Authority, has a duty to ensure that development proposals will not have an adverse impact on the integrity of a designated area. This was in response to Policy DM3 of the adopted Local Plan Part 2 which set out the agreed approach to the mitigation of recreational impacts. This policy has now been superseded by Policy ENV1 in the recently adopted Local Plan 2016-2036 Part 1: Planning Strategy (July 2020).
- 2.2 Whilst the Local Plan adopted in July 2020 sets out an alternative approach to recreational mitigation for the strategic allocation sites there is still development that has, is and will be built that needs recreational mitigation and therefore the current CIL receipts are committed to current and future projects that mitigate the recreational pressure on the New Forest National Park resulting from development.
- 2.3 Further detail of the agreed approach to the mitigation of recreational impact is set out in the Mitigation for Recreational Impacts on New Forest European Sites Supplementary Planning Document (SPD) 2021, which updated the previous SPD adopted in 2014.
- 2.4 The context of the original mitigation strategy was one of much lower levels of new development than now being planned for in the district than previously. Higher levels of overall development now need to be addressed. The changes in the mitigation strategy set out above, and agreed through the Local Plan process, are a response to these higher levels of growth. These changes, together with the experience gained from implementing a recreational mitigation strategy over a six-year period, have informed the revised Recreational Mitigation Strategy SPD.
- 2.5 Unlike the 2014 SPD, the 2021 SPD does not include a full programme of off-site mitigation projects for the full plan period. A five-year programme of off-site mitigation projects, which will be reviewed annually will be the subject of a separate Cabinet report.

- 2.6 There will be an increase in CIL monies with the increased levels of development that will be delivered through the Local Plan 2016- 2036 Part 1: Planning Strategy (July 2020). A future Cabinet report will set out a proposed mechanism for how the Council will decide which infrastructure projects those receipts will be allocated to.

### **3. CURRENT POSITION**

- 3.1 At the start of this financial year the Council held £6.4m to be utilised towards infrastructure projects (outside of the element of CIL to be passed to local Councils and used for administration of the CIL process). Whilst a large sum will be required to implement the required recreational mitigation projects, it does allow the Council an amount of flexibility to allocate a proportion of overall funds to other infrastructure projects.
- 3.2 The Council's original Capital Programme budget for 2022/23, as set in February 2022, included a budget of £680,000 to be spent on delivering projects, funded through CIL. It is envisaged that this funding will be fully utilised to fund confirmed and committed schemes by the end of the financial year.

### **4. PROPOSED ALLOCATION OF CIL FUNDS TO THE FOOTBALL FOUNDATION, RINGWOOD PROJECT.**

- 4.1 The Council are currently working with AFC Bournemouth Community Sports Trust, Ringwood Town Council and Ringwood Town Football Club to develop the facilities at Long Lane, Ringwood.
- 4.2 The site will continue to be the home of Ringwood Town FC and will enable staff and players associated with AFC Bournemouth's Community Sports Trust to be based on site. Crucially, a number of community programmes will also be based on site and all in the one location. The phased development will comprise of a new full size 3G artificial turf pitch (ATP), improvements to existing grass pitches, redeveloping the car park and a new pavilion with changing rooms.
- 4.3 Historic Section 106 open space allocations have been utilised to provide funding of £435k. Third party funding totalling more than £2M, has been made by AFC Bournemouth Community Sports Trust, the Football Foundation and a loan to be arranged and repaid by Ringwood Town Council, there is a funding shortfall of £100k. It is proposed that in addition to the contributions from S106 already utilised that £100k of CIL money is allocated towards this project.

### **5. FINANCIAL IMPLICATIONS**

- 5.1 CIL Regulations at Regulation 59 state "a charging authority must apply CIL to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area". The proposed project at Ringwood meets the definition of infrastructure.
- 5.2 There will be no financial impact to the Council as the project can be funded within the existing capital programme budget, and is fully funded by CIL.

### **6. CRIME & DISORDER AND, EQUALITY & DIVERSITY IMPLICATIONS**

- 6.1 There are none.

## **7. ENVIRONMENTAL IMPLICATIONS**

- 7.1 The identified proposals bring direct environmental as well as health and well-being and climate change benefits through the provision of new public open space, improving and enabling greater use of existing open space and the creation of new of sustainable walking routes.

## **8. DATA PROTECTION IMPLICATIONS**

- 8.1 None.

## **9. PORTFOLIO HOLDER COMMENTS**

- 9.1 I welcome the use of CIL money to support what will be an excellent sporting facility in Ringwood, which will be a valuable asset to the community.

### **For further information contact:**

Claire Upton-Brown  
Executive Head Planning, Regeneration and  
Economy  
023 8028 5345 (option 1)  
Claire.Upton-Brown@nfdc.gov.uk

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### **Background Papers:**

[Cabinet Paper 1 October 2014 –  
Community Infrastructure Levy](#)

[Cabinet Paper 4 February 2015 –  
Allocation of Developer Contributions](#)

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## FINANCIAL MONITORING REPORT (based on Performance April to September 2022 inclusive)

### 1. RECOMMENDATIONS

1.1 It is recommended that Cabinet:

- 1.1.1 notes the latest budget forecasts of the General Fund (section 4), Capital (section 5), and HRA (section 6).
- 1.1.2 approves additional budgetary provision of £100,000 for Housing Revenue Account Cyclical Maintenance External Decorating costs.
- 1.1.3 requests Council to approve additional budgetary provision of £330,000 for Housing Revenue Account voids and general reactive maintenance costs.
- 1.1.4 requests Council to approve a 25% uplift in Housing tenants domestic and communal electric and gas service charges element only, commencing from 2 January 2023, in line with the detail as outlined in appendix 5, and as unanimously supported by the Tennant Involvement Group on the 6<sup>th</sup> October.

### 2. INTRODUCTION

2.1 Following the approval of the Original Budget for 2022/23 in February 2022, this report provides an update on the General Fund, Capital and Housing Revenue Account budgets, adjusting for any budget changes now required.

### 3. BACKGROUND

- 3.1 Financial Monitoring is an important feature in the management of the Council's finances as it gives an opportunity to reflect on variations as against the latest set budget and reflect on the impact that these variations may have over the period covered by the Council's Medium Term Financial Plan.
- 3.2 During September the Government announced its 'mini-budget' proposals. The change in National Insurance rates has a direct favourable impact on the Council (detailed in paragraph 4.10) as does the business energy price cap.
- 3.3 Increases in interest rates and continued high levels of inflation continue to have consequential impacts to the Council's finances. Interest rate increases have the potential to result in additional interest earnings in 2022/23 but these still need to be quantified and taken in the context of the wider financial market volatility seen since the significant tax cutting measures that were included within the 'mini-budget'. Longer term, the higher interest rates are likely to have a negative impact as reserves are utilised and borrowing is required to meet the Capital Financing Requirement. Inflationary pressures continue to be seen in some areas in terms of the procurement of goods and services.

#### 4. GENERAL FUND REVISED PROJECTION

- 4.1 A General Fund budget of **£20.674 million** for 2022/23 was agreed by Council in February 2022.
- 4.2 Net additional budget requirements of £511,000 were included within the first Financial Monitoring Report of the year reported up to the Council. This updated monitoring position increased the total budget requirement to **£21.185 million**. The report identified that work would commence over the Summer on mitigations to offset the variations, with a view to bringing the forecast outturn for 2022/23 back more closely aligned with the original budget expectation.
- 4.3 The latest budget variations now reported, including the mitigating actions as required, include net favourable expenditure variations of £711,000 and net income increases of £235,000. This mitigated position exceeds the level of previous adverse variations by £435,000. However, the Council is also now facing significant additional homelessness budget pressures, forecast at £1.3 million, largely through increased bed and breakfast usage. The report elsewhere on the agenda covers this issue in more detail, and covers the specific recommendations related to this increased expenditure.
- 4.4 The resultant updated General Fund Budget, taking all new reportable variations into account, including those on homelessness, is **£21.539 million**. This is an overall increase of £865,000 from the original estimate. Work will continue to confirm options as to how to address this new budget variation.
- 4.5 The revised General Fund Budget for 2022/23 can be seen at Appendix 1, with further details on the material variations being reported in paragraphs 4.6 – 4.12, and all variations included within Appendix 2.
- 4.6 **Staffing Vacancies (-£254,000)** – Staff vacancies across various services including Revenues and Benefits (£85,000), Planning (£61,000), Housing Development (£40,000), Information Offices (£20,000) and Economic Development (£19,000) have resulted in savings of £254,000.
- 4.7 **Pay Review (-£226,000)** – Funding of £300,000 was allocated within the budget for a pay spine review. The Changes to Spine Point report approved by Council in October results in a part year impact to 2022/23 of £74,000.
- 4.8 **Car Parking (-£150,000)** - The funds set aside in 2022/23 to accommodate the Parking Clock review will no longer be required this year as scheme changes will not be made for 2023 clocks.
- 4.9 **Investment Property (-£132,000)** – Rental income in 2022/23 from the recently acquired property in New Milton will be £187,000, partially offset by internal capital financing costs of £55,000.
- 4.10 **Government Mini Budget (-£75,000)** – The recent Government announcement to reverse the National Insurance increase will generate £75,000 of savings in 2022/23.
- 4.11 **Refuse & Recycling (net -£42,000)** – Operational overspends on agency staff and overtime (£110,000) and in the costs of sacks (£28,000) are offset by anticipated



additional recycling income (-£110,000), recent reductions in fuel costs (-£35,000) and savings due to the rephasing implications of the vehicle replacement programme (-£35,000).

- 4.12 **Coast Protection (net £nil)** – Additional expenditure budget of £57,000 is required to carry out enhanced sea defence maintenance works at Hurst Spit. Contributions have been agreed with key stakeholders, English Heritage, Hampshire County Council and the Environment Agency, to fully offset the cost.

## 5. CAPITAL EXPENDITURE (General Fund and Housing Revenue Account)

- 5.1 A Capital Programme budget of **£42.074 million** for 2022/23 was agreed by Council in February 2022.
- 5.2 Principally due to scheme rephasings, the budget was reduced by £1.006 million to £41.068 million in the September Cabinet report.
- 5.3 The latest forecast confirms new variations totalling £5.530 million offset by reductions in spend forecasts of £4.300 million, and rephasings into 2023/24 of £260,000. The main variations are summarised below:

### Variations **£1,230,000**

- **Investment Property (£5,500,000)** – Expenditure of £5.5 million was incurred in acquiring the investment property in Station Road, New Milton.
- **Housing Development Strategy Programme (-£4,000,000)** – Latest spend predictions show an underspend of £4.0 million against the £14.2 million original approved budget.
- **Private Sector Disabled Facilities Grants (-£300,000)** – Latest spend predictions show an underspend of £300,000 against the £1.2 million original approved budget.
- **Developers' Contributions (£30,000)** – Funding of £30,000 has been provided for the Ewart Recreation Ground Play Area.

### Rephasings **-£260,000**

- **Coast Protection** – Barton Drilling Trials (-£175,000)
  - **Coast Protection** – Hurst Spit Shingle Source Study (-£85,000)
- 5.4 The changes, as above, result in an updated Capital Programme Budget of **£42.038 million** (Appendix 3).

## 6. HOUSING REVENUE ACCOUNT

- 6.1 After allowing for contributions of £200,000 from earmarked reserves for the Housing ICT system replacement and Stock Condition Survey work, a break-even HRA budget for 2022/23 was agreed in February 2022, with a Revenue Account contribution of £9.120 million supporting the financing of the £24.900 million HRA Capital Programme.
- 6.2 The September monitoring report to Cabinet identified additional budget requirements of £866,000.
- 6.3 This report identifies further net additional budget requirements of £546,000, resulting in **an overall net additional budget requirement of £1.412 million**. New variations are detailed in the following paragraphs and summarised in Appendix 4.
- 6.4 **Reactive Maintenance (£330,000)** – The level of works on void properties has continued at the higher levels also incurred in 2021/22, resulting in a forecast budget shortfall of £200,000. In addition, general price increases in materials and hired services have resulted in additional costs of £130,000, an overall supplementary budget of £330,000 is therefore requested.
- 6.5 **Dwelling Rent Income Voids (£200,000)** – Income loss from void properties has continued at similar levels to 2021/22 and is anticipated to exceed budget by £200,000.
- 6.6 **Cyclical Maintenance (£100,000)** – Contracted commitments on external decorating works were not allowed for in the original budget, a supplementary budget is therefore requested.
- 6.7 **Pay Review (£29,000)** – The Changes to Spine Review report approved by Council in October results in additional costs to the Housing Revenue Account of £29,000 in 2022/23. This is reflected within General Management (£16,000), Reactive Maintenance (£12,000) and Special Services (£1,000).
- 6.8 **General Management (-£100,000)** – Staff vacancies in the Housing Property Services team have generated savings of £100,000.
- 6.9 **Service Charges (-£13,100)** – The review of services charges proposal detailed in Appendix 5 will generate a contribution towards increased utility costs of £13,100 in 2022/23, and £52,400 in a full year.

## 7. CRIME AND DISORDER / EQUALITY AND DIVERSITY/ENVIRONMENTAL IMPLICATIONS

- 7.1 There are no Crime & Disorder, Equality & Diversity or Environmental implications arising directly from this report.

## 8. PORTFOLIO HOLDER COMMENTS

- 8.1 Given the volatility of the global economy, it is vital that NFDC monitor and, where possible, adjust its financial strategy both in the short and long term.

- 8.2 Whilst we are seeing upward inflationary pressures across a number of areas within the Council we can take solace that we can, in the short term, manage them and that we are better positioned to accommodate the challenges when compared against a number of other local authorities.

**For Further Information Please Contact:**

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**Background Papers:**

Cabinet 29 July 2022 -  
Financial Monitoring Report  
Cabinet 16 February 2022 -  
MTFP and Annual Budget  
2022/23

FINANCIAL MONITORING 2022/23						
REVISED GENERAL FUND BUDGET 2022/23						
	Feb-22	29-July-22	Nov-22			
	2022/23	2022/23	2022/23	2022/23	2022/23	2022/23
	£'000's	£'000's	£'000's	£'000's	£'000's	£'000's
	Original	Updated	New	New	New	Updated
	Budget	Budget	Variations	Variations	Variations	Budget
			Expend.	Income	Rephasings	
<b>PORTFOLIO REQUIREMENTS</b>						
Business, Tourism and High Streets	297	354	-18	0	0	336
Environment and Coastal Services	4,100	4,532	2	-177	0	4,357
Finance, Investment and Corporate Services	3,778	3,950	-441	-212	-80	3,217
Housing and Homelessness Services	2,025	2,160	1,267	0	0	3,427
Leader	496	581	53	0	0	634
Partnering and Wellbeing	3,013	3,183	9	-15	0	3,177
People and Places	3,713	4,001	20	0	0	4,021
Planning, Regeneration and Infrastructure	2,696	2,811	-110	57	0	2,758
Multi Portfolio adjustments - To be allocated	0	385	-136	0	0	249
	20,118	21,957	646	-347	-80	22,176
Reversal of Depreciation	-1,589	-1,589				-1,589
Contribution (from) / to Earmarked Revenue Reserves	-38	-466	0	0	80	-386
<b>NET PORTFOLIO REQUIREMENTS</b>	<b>18,491</b>	<b>19,902</b>	<b>646</b>	<b>-347</b>	<b>0</b>	<b>20,201</b>
Minimum Revenue Provision	1,571	1,571		55		1,626
Contribution to Capital Programme Financing (RCCO)	1,750	850				850
Interest Earnings (Net)	-772	-772				-772
New Homes Bonus	-366	-366				-366
<b>GENERAL FUND NET BUDGET REQUIREMENTS</b>	<b>20,674</b>	<b>21,185</b>	<b>646</b>	<b>-292</b>	<b>0</b>	<b>21,539</b>
<b>COUNCIL TAX CALCULATION</b>						
Budget Requirement	20,674	21,185	646	-292	0	21,539
Less: Settlement Funding Assessment						
Lower Tier Service Grant	-179	-179				-179
Services Grant	-276	-276				-276
Business Rates Baseline	-3,997	-3,997				-3,997
	-4,452	-4,452	0	0	0	-4,452
Locally Retained Business Rates	-2,185	-2,185				-2,185
Estimated Collection Fund (Surplus)/Deficit Business Rates	-199	-199				-199
Estimated Collection Fund (Surplus)/Deficit Council Tax	-253	-253				-253
Use of (-) Variation Reserves	0	-511	-646	292		-865
<b>COUNCIL TAX</b>	<b>13,585</b>	<b>13,585</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>13,585</b>
<b>TAX BASE NUMBER OF PROPERTIES</b>	<b>72,122.70</b>	<b>72,122.70</b>				<b>72,122.70</b>
<b>COUNCIL TAX PER BAND D PROPERTY</b>	<b>188.36</b>	<b>188.36</b>				<b>188.36</b>
<b>GENERAL FUND BALANCE 31 MARCH</b>	<b>3,000</b>	<b>3,000</b>				<b>3,000</b>

## FINANCIAL MONITORING 2022/23

## VARIATION ANALYSIS GENERAL FUND 2022/23

	29-July-22	Nov-22			2022/23 £'000's Updated Budget
	2022/23 £'000's Updated Budget	2022/23 £'000's New Variations Expend.	2022/23 £'000's New Variations Income	2022/23 £'000's New Variations Rephasings	
<b>PORTFOLIO ADJUSTMENTS</b>					
<b>Business, Tourism and High Streets</b>					
Previously Reported	50				
National Pay Award implications allocated to relevant Portfolio	7				
Changes to Pay Spine - October Council		1			
Staff vacancies within Economic Development		-19			
	57	-18	0	0	39
<b>Environment and Coastal Services</b>					
Previously Reported	89				
National Pay Award implications allocated to relevant Portfolio	343				
Changes to Pay Spine - October Council		27			
Coast Protection - Hurst Spit Maintenance Works funded by Third Parties		57	-57		
Foreshores - additional concessions income			-10		
Parking		-150			
Refuse Collection & Recycling - new Sacks price increase		28			
Refuse Collection & Recycling - fuel price updated		-35			
Refuse Collection & Recycling - Operational overspend - Agency/Overtime to Sept		110			
Recycling - Additional projected PI income 22/23			-110		
Refuse Collection & Recycling - V&P Programme revenue savings to Service		-35			
	432	2	-177	0	257
<b>Finance, Investment and Corporate Services</b>					
Previously Reported	26				
National Pay Award implications allocated to relevant Portfolio	146				
Changes to Pay Spine - October Council		15			
Changes to Pay Spine - October Council. Virement to Portfolios		-74			
Unutilised Pay Review Funding		-226			
Corporate Plan Non -recurring. Resident Insight vired to Leader		-35			
Corporate Plan Delivery Objectives - Transformation Programme Manager				-80	
Climate Change Manager funding vired to Leader		-37			
Democratic Services - Members Allowance Review & 22/23 Inflationary Award		43			
Democratic Services - Members Car Allowances underspend		-10			
Revenues & Benefits Service - Salary Savings		-85			
Additional Investment Income - Station Road, New Milton			-187		
Communications - salary savings		-12			
Information Offices - salary savings		-20			
Lymington Town Hall - service charges re utilities			-25		
	172	-441	-212	-80	-561
<b>Housing and Homelessness Services</b>					
Previously Reported	66				
National Pay Award implications allocated to relevant Portfolio	69				
Changes to Pay Spine - October Council		7			
Homelessness		1300			
Staff Vacancy - Housing Development		-40			
	135	1267	0	0	1402
<b>Leader</b>					
Previously Reported	77				
National Pay Award implications allocated to relevant Portfolio	8				
Changes to Pay Spine - October Council		1			
Resident Insight vired from Finance, Inv & CS		35			
Registration of Electors - annual canvass savings		-20			
Climate Change Manager, Funding vired from F, I & CS		37			
	85	53	0	0	138

## FINANCIAL MONITORING 2022/23

## VARIATION ANALYSIS GENERAL FUND 2022/23

	29-July-22	Nov-22			2022/23 £'000's Updated Budget
	2022/23	2022/23	2022/23	2022/23	
	£'000's	£'000's	£'000's	£'000's	
	New Variations Expend.	New Variations Income	New Variations Rephasings	Updated Budget	
<b>PORTFOLIO ADJUSTMENTS</b>					
<b>Partnering and Wellbeing</b>					
Previously Reported	82				
National Pay Award implications allocated to relevant Portfolio	88				
Changes to Pay Spine - October Council		9			
Government grant to fund Priority Places Post			-15		
	170	9	-15	0	164
<b>People and Places</b>					
Previously Reported	164				
National Pay Award implications allocated to relevant Portfolio	124				
Changes to Pay Spine October Council		6			
Street Scene - Fuel price updated		-6			
Public Conveniences - consumables price increases		20			
	288	20	0	0	308
<b>Planning, Regeneration and Infrastructure</b>					
Previously Reported					
National Pay Award implications allocated to relevant Portfolio	115				
Changes to Pay Spine October Council		8			
Salary Vacancies		-61			
Salary Vacancies offset by income shortfall (CIL)		-57	57		
	115	-110	57	0	62
<b>Portfolio adjustments - Non Direct</b>					
Previously Reported	385				
Design Room - salary savings		-17			
ICT - Licence savings		-35			
Various - Fuel price updated		-9			
National Insurance Increase Reversal		-75			
	385	-136	0	0	249
<b>TOTAL PORTFOLIO ADJUSTMENTS</b>	<b>1839</b>	<b>646</b>	<b>-347</b>	<b>-80</b>	<b>2058</b>
<b>NON-PORTFOLIO ADJUSTMENTS</b>					
<b>Minimum Revenue Provision</b>			55		
Contribution to Capital Programme Financing (RCCO)	-900				
Contribution to/from(-) Earmarked Reserves	-428	0	0	80	
<b>TOTAL NON-PORTFOLIO ADJUSTMENTS</b>	<b>-1328</b>	<b>0</b>	<b>55</b>	<b>80</b>	<b>-1193</b>
<b>GRAND TOTAL ADJUSTMENTS (Credited to (-) / Debited from (+) Budget Reserves)</b>	<b>511</b>	<b>646</b>	<b>-292</b>	<b>0</b>	<b>865</b>

## FINANCIAL MONITORING 2022/23

## REVISED CAPITAL PROGRAMME 2022/23

		Feb-22	29-July-22			Nov-22
		2022/23	2022/23	2022/23	2022/23	2022/23
		£'000	£'000	£'000's	£'000's	£'000
	Portfolio	Original Budget	Updated Budget	New Variations Expend.	New Variations Rephasing	Updated Budget
Sustainability Fund - Unallocated	LEADER/ALL	500	300			300
Sustainability Fund - Crow Lane Solar Panels	LEADER/ALL		200			200
Disabled Facilities Grants	HSG (GF)	1,200	1,200	-300		900
South East Regional Coastal Monitoring Prog (22-27)	ENV & COAST	1,978	1,775			1,775
South East Regional Coastal Monitoring Prog (18-21)	ENV & COAST		363			363
South East Regional Coastal Monitoring Prog (12-17)	ENV & COAST		12			12
Barton Horizontal Directional Drilling Trails	ENV & COAST	225	225		-175	50
Milford Promenade Handrail	ENV & COAST	115	115			115
Hurst Spit Beach Shingle Source Study	ENV & COAST	100	100		-85	15
Public Convenience Modernisation Programme	PEOPLE & PL	300	237	-225		12
Public Convenience Refurbishment - Lymington Quay	PEOPLE & PL		205	25		230
Public Convenience Refurbishment - Barton on Sea	PEOPLE & PL			200		200
Health & Leisure Centres	PART & WELL		2,014			2,014
New Depot Site: Hardley	F, I & CS	4,000	500			500
V&P; Replacement Programme	F, I & CS	3,081	1,800			1,800
Smarter Working; Future Delivery	F, I & CS		75			75
Economic Sustainability & Regeneration Projects						
- Crow Lane Ringwood	F, I & CS	4,995	5,667			5,667
Station Road, New Milton	F, I & CS			5,500		5,500
Open Space Schemes	P, R & I		700	30		730
Transport Schemes	P, R & I					
Mitigation Schemes	P, R & I	680	680			680
<b>TOTAL GENERAL FUND CAPITAL PROGRAMME</b>		<b>17,174</b>	<b>16,168</b>	<b>5,230</b>	<b>-260</b>	<b>21,138</b>
HRA - Major Repairs	HRA	5,500	5,500			5,500
Major Structural Refurbishments	HRA	1,000	1,000			1,000
Fire Risk Assessment Works	HRA	3,000	3,000			3,000
Estate Improvements	HRA	200	200			200
Development Strategy	HRA	14,200	14,200	-4,000		10,200
Disabled Facilities Grants	HRA	1,000	1,000			1,000
<b>TOTAL HRA CAPITAL PROGRAMME</b>		<b>24,900</b>	<b>24,900</b>	<b>-4,000</b>		<b>20,900</b>
<b>GRAND TOTAL CAPITAL PROGRAMME</b>		<b>42,074</b>	<b>41,068</b>	<b>1,230</b>	<b>-260</b>	<b>42,038</b>

FINANCIAL MONITORING 2022/23				
REVISED HOUSING REVENUE ACCOUNT BUDGET 2022/23	Feb-22 2022/23 £'000 Original Budget	29-July-22 2022/23 £'000 Updated Budget	Nov-22 2022/23 £'000 New Variations	Nov-22 2022/23 £'000 Updated Budget
<b>INCOME</b>				
Dwelling Rents	-28,414	-28,414	200	-28,214
Non Dwelling Rents	-672	-672		-672
Charges for Services & Facilities	-732	-732	-13	-745
Contributions towards Expenditure	-60	-60		-60
Interest Receivable	-58	-58		-58
Sales Administration Recharge	-33	-33		-33
Shared Amenities Contribution	-256	-256		-256
<b>TOTAL INCOME</b>	<b>-30,225</b>	<b>-30,225</b>	<b>187</b>	<b>-30,038</b>
<b>EXPENDITURE</b>				
<b>Repairs &amp; Maintenance</b>				
Cyclical Maintenance	1,196	1,224	100	1,324
Reactive Maintenance	3,648	3,794	342	4,136
<b>Supervision &amp; Management</b>				
General Management	6,209	6,446	-84	6,362
Special Services	1,377	1,792	1	1,793
Homeless Assistance	91	131		131
<b>Rents, Rates, Taxes and Other Charges</b>	<b>81</b>	<b>81</b>		<b>81</b>
<b>Provision for Bad Debt</b>	<b>150</b>	<b>150</b>		<b>150</b>
<b>Capital Financing Costs - Settlement Adjustment</b>	<b>8,322</b>	<b>8,322</b>		<b>8,322</b>
<b>Capital Financing Costs - Internal Borrowing</b>	<b>231</b>	<b>231</b>		<b>231</b>
<b>TOTAL EXPENDITURE</b>	<b>21,305</b>	<b>22,171</b>	<b>359</b>	<b>22,530</b>
<b>HRA OPERATING SURPLUS(-)</b>	<b>-8,920</b>	<b>-8,054</b>	<b>546</b>	<b>-7,508</b>
Contribution to Capital - supporting Housing Strategy	9,120	9,120		9,120
<b>HRA Total Annual Surplus(-) / Deficit</b>	<b>200</b>	<b>1,066</b>		<b>1,612</b>
Use of HRA Reserve for Major Projects	-200	-200		-200
<b>HRA TOTAL ANNUAL SURPLUS(-) / DEFICIT</b>	<b>0</b>	<b>866</b>	<b>0</b>	<b>1,412</b>



## HOUSING REVENUE ACCOUNT SERVICE CHARGES - UTILITIES

### 1 BACKGROUND

- 1.1 The Housing Revenue Account (HRA) pays utility companies directly for the domestic gas usage of residents living in 16 blocks of flats across the district, the domestic electric usage of residents residing in 13 blocks of flats and the communal electric used in 31 blocks of flats.
- 1.2 In addition to their weekly rent, an additional weekly service charge to recover income against these utility costs is charged to each resident residing in these blocks. Some residents also incur additional charges for communal cleaning etc. Service Charges are due for a wider review for 2023/24 but due to the significant increase in energy costs over the last few months resident service charges are now well below the level of costs incurred by the HRA. The result is utility costs in these blocks are now on average 110% higher than the respective service charges. In effect, this means the HRA is now subsidising the energy costs of residents in these blocks.
- 1.3 Given the cost-of-living pressures currently experienced by residents it is proposed to apply a fair and reasonable approach to increasing current service charges across a number of phases, beginning with a 25% uplift of charges from 2nd January, following a period of notice and consultation with affected residents
- 1.4 In the majority of cases where costs for communal electricity only are recovered the increase is less than £1 per week per resident. A typical example of where both domestic and communal charges are recovered is show in Table 1 below.

Table 1. Marryat Court, New Milton:

	<i>Bedsit</i>	<i>One bed</i>	<i>Two bed</i>
Current total weekly charge	£19.90	£21.24	£22.57
Proposed total weekly service charge	£23.33	£25.00	£26.66
Additional weekly payment (utilities only)	£3.43	£3.76	£4.09

- 1.5 These charges are not covered by Housing Benefit or Universal Credit. During the period of consultation, we aim to identify any issues of financial hardship and we will signpost residents appropriately with this change. Implementing a 25% increase on 2nd January 2023 will result in a contribution towards increased utility costs of £13,100 to the HRA in 2022/23 (£52,400 full year).
- 1.6 A wider review of service charges is currently taking place and recommendations will be taken through the Council's decision-making process in due course.

## **2 TENANT INVOLVEMENT GROUP**

- 2.1 On 6 October 2022 the Tenant Involvement Group received a presentation on the proposal to increase service charges. Unanimous support was given to the proposal to increase service charges and by a phased approach, commencing with a 25% uplift on 2 January 2023.

### **For further information contact:**

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