



Appeal Decision

Inquiry held on 22, 23, 24 and 25 November 2021

Accompanied site visit made on 24 November 2021

by Jessica Graham BA(Hons) PgDipL

an Inspector appointed by the Secretary of State

Decision date: 2 February 2022

Appeal Ref: APP/R3650/C/20/3264255

Land at The Sculpture Park, Jumps Road, Churt, Farnham GU10 2LB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Edward Powell against an enforcement notice issued by Waverley Borough Council.
- The enforcement notice, numbered EN/2020/14, was issued on 28 October 2020.
- The breach of planning control as alleged in the notice is
 - i) The material change of use of the Land from woodland (agricultural use) to use as a sculpture park, arboretum and water gardens (sui generis use) and associated storage.
 - ii) An engineering operation consisting of the construction of hardstanding to facilitate the use of part of the Land for purposes associated with the use of the adjacent land as a sculpture park, arboretum and water gardens. The area of hardstanding is shown crosshatched on the attached plan.
- The requirements of the notice are
 - i) Cease the use of the Land as a sculpture park, arboretum and water gardens and any associated storage.
 - ii) Remove the hardstanding as identified by crosshatching on the attached plan.
 - iii) Remove from the Land all materials resulting in the removal of the hardstanding.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(a),(c),(d),(f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal succeeds in part. The enforcement notice is upheld, with corrections and variations, in the terms set out below in the Formal Decision.

Procedural matters

1. The Jumps Road Residents Group ("the JRRG") sought, and were granted, Rule 6 status. They played an active part in the Inquiry, at which they were professionally represented.
2. The Inquiry opened on 22 November and closed on 25 November 2021. I made an unaccompanied site visit on 21 November, and an accompanied site visit on 24 November. All of the witnesses who appeared at the Inquiry gave evidence under affirmation. Two of the witnesses gave their evidence via video link, and I am grateful to the Council for facilitating that procedure.
3. References in square brackets are to documents submitted in the course of the inquiry, and listed at the end of this decision letter.

Background

4. In 2002 an application¹ was made for the change of use of land on Jumps Road ("the Sculpture Park") to use as an arboretum, water gardens, and for the display of sculptures ("the 2002 application"). The Council resolved to grant planning permission, subject to the completion of a S.106 Agreement; however the S.106 Agreement was not completed, and the Council took no further action on the application. The Sculpture Park opened to the public in April 2003.
5. In 2009 an application² was made for continued use of the land as a sculpture park, arboretum and water gardens ("the 2009 application"). The Council resolved to grant planning permission, subject to the completion of a S.106 Agreement; but again, no S.106 Agreement was completed, and the Council took no further action on the application. In 2013 an application³ was made for a Certificate of Lawfulness for the use of the land as a sculpture park, arboretum and water gardens. The Council issued a Certificate of Lawfulness on 4 February 2014 ("the 2014 LDC").
6. On 2 October 2020 the Council served an Enforcement Notice in respect of alleged breaches of planning control on land adjoining the western side of the Sculpture Park ("the Appeal Site"). Upon realising an incorrect reference number had been incorporated, the Council withdrew that notice, and on 28 October 2020 issued a second notice in respect of the same alleged breach. It is that second notice which is the subject of this appeal.

The terms of the Enforcement Notice

7. Before turning to the particular grounds of appeal, I need to address some matters arising from the terms of the Enforcement Notice. As the Inspector appointed to determine this appeal I have a duty to get the notice in order if I can, and the power⁴ to correct any defect, error or misdescription in it, or to vary its terms, subject only to the proviso that I must be satisfied the correction or variation will not cause injustice to the Appellant or the Council.

Typographical error in paragraph 5(iii)

8. It is clear that the reference in the third requirement of the notice to "resulting in..." ought in fact to read "resulting from...": left uncorrected, it would in effect simply reiterate the second requirement. As agreed at the inquiry, I can correct this typographical error without injustice to any party.

The plan attached to the Enforcement Notice

9. At the inquiry it was agreed by all three parties that the area of crosshatching shown on the plan attached to the notice does not accurately reflect the extent of the hardstanding on the ground, and that a revised plan should be substituted. Two alternative revised plans were produced; one by the Council and the JRRG [ID 7] and one by the Appellant [ID 8]. The differences between them concern the extent of the hardstanding said to have become lawful through the passage of time (identified as Area A on both plans) and the extent of the hardstanding constructed within the last

¹ Ref WA/2002/2450

² Ref WA/2009/1683

³ Ref WA/2013/0956

⁴ Per s.176(1) of the 1990 Act

four years (identified as Area B on both plans). The question of which plan should be preferred is a matter I shall resolve when I come to the appeal on ground (d). For present purposes, it will suffice to note I am satisfied that substituting the existing plan with either of the two alternative revised plans would not cause any injustice.

The scope of the alleged breach and the requirements

10. Where (as here) an enforcement notice is directed at a material change of use, it may also require the removal of works integral to and solely for the purpose of facilitating that use, so that the land is restored to its condition before the breach took place. In such cases it is not necessary for the allegation to refer to the works. In this case, the notice refers to “an engineering operation consisting of the construction of hardstanding” undertaken to facilitate the use. There is no dispute that works to construct the hardstanding included excavating and levelling the land in Area B, which formerly sloped upward toward the rear of the Appeal Site.
11. The notice therefore could have, but does not, include a requirement to restore the land to its previous condition. It only requires (along with the cessation of the use) the removal of the hardstanding, and materials resulting from that removal. This means that if those requirements were complied with, planning permission would be treated as having been granted for the excavation and levelling works.⁵ The JRRG raised this point in its Statement of Case, submitted in June 2021, where it requested that the notice be varied by expanding the alleged breach of planning control to include the excavation works, and adding requirements to restore the land to its previous condition. The JRRG subsequently provided a written note setting out proposed variations to the notice [ID 9] which informed discussion at the inquiry.
12. In response to my questions, the Council advised that while the Enforcement Notice had been drafted “in a hurry”, it was content with the wording. It was not clear whether the Council had made a deliberate decision to under-enforce, or had simply not appreciated that excavation and levelling works had been carried out: its position at the close of the inquiry was that it “makes no positive case” in respect of the variations proposed by the JRRG.
13. I am not satisfied that the requirements of the notice as drafted are consistent, in that they seek the removal of the hardstanding because (in the submission of the Council) its construction was a breach of planning control which has harmed the Green Belt and AONB, but do not seek to reverse the excavation and levelling works that were part and parcel of that construction. Where a notice is intended to remedy a breach of planning control by requiring the cessation of an unauthorised use, together with the removal of works that facilitated that use, it seems to me that the requirement should be to remove all of the facilitating works so as to restore the land to its condition before the breach took place, unless there is a clear and specific reason for seeking to achieve only a partial remedy.⁶

⁵ Per s.173(11) of the 1990 Act

⁶ S.173(3) provides for steps required by the notice to achieve “wholly or partly” the purposes set out at s.173(4).

14. I note (and share) the Council's view that it would not be appropriate for the notice to require re-planting of the pine trees felled to facilitate the development, as suggested by the JRRG, because even if it were possible to establish the number and position of those removed, it would be ecologically preferable to allow natural regeneration to occur. Nor would it be appropriate to require, as the JRRG suggested in the alternative, replacement planting with native tree species. This would amount to improvement, going beyond the statutory purpose of restoring the land to the condition it was in before the breach took place. But there is no discernible reason why the restoration of the former levels of the land should not be required.
15. In order, then, to address the inconsistency between the breach alleged by the notice and its requirements, I shall vary the notice by adding a requirement that the land be restored to its level prior to the breach.
16. The Appellant contended that variation of the notice would cause injustice, in that he had brought his appeal on ground (a) on the basis of the alleged breach as drafted, and his appeal on ground (g) had not factored in the time and expense that would be involved in replacing earth removed from the site. However, the variation I propose does not substantially alter the nature or terms of the permission sought under ground (a), which continues to be the material change of use of the Land to use as a sculpture park, arboretum, water gardens and associated storage, together with the works which facilitated that change of use. Moreover, the Appellant and his witnesses had ample opportunity to address implications of the JRRG's request for variation in their proofs of evidence, in their oral evidence to the inquiry, and in closing submissions. I am satisfied that no injustice arises.
17. Part of the JRRG's note on variations to the notice [ID 9] concerned the changes that should be made if I were to agree with its argument that the Appeal Site and the Sculpture Park constitute separate planning units. I shall address that argument, and any consequent variations needed, when I come to ground (d).

The appeal on ground (c)

18. The ground of appeal is that the matters alleged by the notice do not constitute a breach of planning control. The Appellant's case, in summary, is that the plan attached to the 2014 LDC identified both the Sculpture Park and the Appeal Site as the land to which the Certificate applied: the use alleged by the Enforcement Notice, being the same as that certified as lawful by the 2014 LDC, is not therefore a material change of use such as would require planning permission. The Council and the Rule 6 party contend that, properly construed, the 2014 LDC does not apply to the Appeal Site.

The terms of the 2014 LDC

19. The first paragraph of the 2014 LDC states that the Council hereby certifies that "the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged black on the plan attached to this certificate" would have been lawful. The use described in the First Schedule is:

use of land as a sculpture park, arboretum and water gardens, together with reception/ studio gallery (as amended by plan received 03/01/2014 and letters and additional information received 24/01/2014).

20. The Second Schedule states "Gallery and Sculpture Park, Jumps Road, Churt". The plan attached to the certificate shows the Sculpture Park and the Appeal Site, as a single area of land, edged in black.

Legal principles concerning the interpretation of planning documents

21. The legal principles to be applied to the interpretation of planning documents were summarised by Supperstone J in *University of Leicester v SSCLG*.⁷ These include the general rule that in construing a planning permission which is clear, unambiguous and valid on its face, regard may only be had to the planning permission itself. This rule excludes reference to the planning application as well as to other extrinsic evidence, unless the planning permission incorporates the application by reference. In that situation the application is treated as having become part of the permission. For incorporation of the application in the permission to be achieved, some words sufficient to inform a reasonable reader that the application forms part of the permission are needed, those words appearing in the operative part of the permission dealing with the development and the terms in which permission is granted.
22. The summary by Supperstone J goes on to say that the *Ashford* principles were approved by the Supreme Court in *Trump*⁸, where Lord Hodge stated that "When the Court is concerned with the interpretation of words in a condition in a public document such as a section 36 consent, it asks itself what a reasonable reader would understand the words to mean when reading the condition in the context of the other conditions and of the consent as a whole. This is an objective exercise in which the court will have regard to the natural and ordinary meaning of the relevant words... Whether the court may also look at other documents that are connected with the application for the consent or are referred to in the consent will depend on the circumstances of the case, in particular the wording of the document that it is interpreting. Other documents may be relevant if they are incorporated into the consent by reference..."
23. The Supreme Court has subsequently affirmed, in *Lambeth*⁹, the principles set out in *Trump*. Lord Carnwath said
- In summary, whatever the legal character of the document in question, the starting point – and usually the end point – is to find "the natural and ordinary meaning" of the words there used, viewed in their particular context (statutory or otherwise) and in the light of common sense.*
24. The *University of Leicester* case concerned the interpretation of a planning permission, not a Certificate of Lawfulness, and the *Trump* case concerned a condition imposed on a s.36 consent under the Electricity Act 1989.

⁷ *University of Leicester v Secretary of State for Communities and Local Government and Others* [2016] EWHC 476 (Admin) at [42] – [49], noted by Supperstone J at [42] as having been re-stated by Keene J in *R v Ashford BC ex parte Shepway DC* [1999] P.L.C.R.12; [1998] JPL 1073 at [19]

⁸ *Trump International Golf Club Scotland Ltd v Scottish Ministers* [2015] UKSC 74

⁹ *London Borough of Lambeth v Secretary of State for Housing, Communities and Local Government and Others* [2019] UKSC 33 at [15] – [19]

However, the findings of Lang J in *Breckland*¹⁰ provide authority for the proposition that the line of authorities on the interpretation of planning documents, summarised in the *University of Leicester* case, also applies to cases concerning Certificates of Lawfulness.

Interpreting the 2014 LDC

25. The Appellant rightly points out that there is no immediately obvious mistake on the face of the 2014 LDC: it certifies the lawfulness of the use, described in the First Schedule, of the land described in the Second Schedule and shown on the attached plan. However, I do not share the Appellant's view that on a straightforward interpretation, the words in parentheses in the First Schedule (set out at paragraph 19 above) apply only to the reception/studio gallery. The description of use provided in the First Schedule consists of a single sentence, which lists four elements: sculpture park, arboretum, water gardens, reception/studio gallery. The syntax and punctuation of the sentence do not suggest that the modifying terms placed in parentheses should be read as applicable only to the fourth element. Rather, I consider that the natural and ordinary meaning of the words used in the First Schedule is that the amending documents set out in parentheses are referable to the entirety of the description which precedes them.
26. The presence of the words in parentheses alerts the reasonable reader to the existence of other identified documents, which bear on the description of the use certified as lawful. Put another way, there is no obvious reason why the words in parentheses would have been included - in the operative part of the document setting out what is certified as lawful - if the documents they identify were not relevant to ascertaining the nature of the use described. I therefore conclude that the documents referred to in parentheses at Schedule 1 have been incorporated by reference. It is permissible, and indeed necessary, to have regard to them in order to establish the scope of what is certified as lawful by the 2014 LDC.
27. The first of those documents is the "plan received 03/01/2014", which shows the Sculpture Park outlined in red, but not the Appeal Site. I note that the letter from the Appellant to the Council, which accompanied this plan, states *...as requested I attach 4 copies of a revised site plan excluding the area to the west of the footpath [that is, the Appeal Site] which was included purely due to the red line on the previous application and was an error on our part. Although of course it would have been open to the Council to grant a Certificate of Lawfulness on a reduced site area.* The letter goes on to provide further information concerning the number of sculptures displayed, the routing of footpaths, the reception building and the car parking area. It ends *...For completeness we will be submitting revised statutory declarations to cover the points set out above.*
28. Revised statutory declarations were duly submitted under cover of a letter stamped as received by the Council on 24 January 2014, and there is no dispute that this is the material referred to as "additional information received 24/01/2014" in the First Schedule of the 2014 LDC. The plan attached to each of the revised declarations, and referred to in their content, was the same as that received by the Council on 3 January 2014: that is, it showed the Sculpture Park edged in red, but not the Appeal Site.

¹⁰ *Breckland DC v Secretary of State* [2020] EWHC 292 (Admin) at [30] and [45]

29. Through reference to the documents identified in parentheses, then, it becomes clear that what those documents have “amended” is the extent of the land for which the LDC is sought. The original application plan, which included both the Sculpture Park and the Appeal Site, was effectively replaced during the course of the application with the amended plan received by the Council on 3 January 2014, identifying only the Sculpture Park.
30. The plan attached to the Certificate identifies both the Sculpture Park and Appeal Site, but on the basis that the amended application plan and statutory declarations are (for the reasons I have set out above) incorporated in the LDC, that does not present any insoluble difficulty in interpretation. It is common ground that a Certificate may define a use within the First Schedule by reference to a plan that relates to a smaller area than the land described in the Second Schedule and shown in the plan attached: it is not necessary for a Certificate to define the area to which it relates only within the Second Schedule and the attached plan. When the use defined in the First Schedule is read together with the amending documents referenced as part of that definition, it is clear that the use certified as lawful relates only to the Sculpture Park, and does not extend to the Appeal Site.

Conclusion on ground (c)

31. I conclude that the 2014 LDC does not apply to the Appeal Site. The matters alleged by the Enforcement Notice constitute a breach of planning control, and the appeal on ground (c) must therefore fail.

The appeal on ground (d)

32. The ground of appeal is that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control constituted by the matters stated in the notice. The time limit for taking enforcement action against the material change of use here alleged is ten years, beginning with the date of the breach.¹¹ The Appellant contends that the use of the area identified as “A” on its preferred substitute plan [ID 8] began, and hardstanding was laid to facilitate that use, more than ten years before the notice was issued - on 17 April 2003, when the Sculpture Park opened - and has continued ever since. The Appellant acknowledges that the hardstanding identified as Area “B” on plan ID 8 was constructed less than four years before the enforcement notice was issued, and this area is not included within the appeal on ground (d).
33. The Council now accepts, on the basis of the evidence presented, that the change of use of (and laying of hardstanding upon) the area identified as “A” on its proposed substitute plan [ID 7] took place more than ten years before the notice was issued. The JRRG agrees with the Council that this means the hardstanding on Area A [per plan ID 7] is now immune from enforcement, but contends that the Appellant has failed to establish that the use of Area A (as distinct from the operational development on it) has been carried out for the requisite period of time to achieve immunity from enforcement.

¹¹ S.171B(3) of the 1990 Act

The planning unit

34. Where there is a dispute as to whether or when a material change of use has occurred, it is helpful to begin by establishing the extent of the planning unit; that is, the appropriate physical area against which to assess the materiality of the change. The Council and the Appellant agree that the Sculpture Park and the Appeal Site are part of one and the same planning unit, but the JRRG contends that they form two separate planning units.
35. Case law¹² has established that the planning unit is usually the unit of occupation, unless a smaller area can be identified which, as a matter of fact and degree, is physically separate and distinct, and occupied for different and unrelated purposes. There are three broad categories of distinction: (1) a single planning unit, where the unit of occupation has one primary use and any other activities are incidental or ancillary; (2) a single planning unit that is in mixed use, because the land is put to two or more activities and it is not possible to say that one is incidental to another; and (3) the unit of occupation comprises two or more physically separate areas, which are occupied for different and unrelated purposes. Each area that has a different primary use ought to be considered as a separate planning unit.
36. In this particular case, the Sculpture Park and the Appeal Site are both owned and occupied by the Appellant. They are separated by the public footpath which runs between them, such that each has its own entrance. However, physical separation is not by itself determinative, and it is necessary also to consider the extent of any functional link between the two areas. The evidence of the Appellant is that the Appeal Site has always been used as the Sculpture Park's "back yard": that is, an area of land to which staff employed at the Sculpture Park, but not the general public, have access. There is no suggestion that the Appeal Site has been used for any purpose unconnected with the Sculpture Park.
37. I note the JRRG's point that the display of sculptures within the Sculpture Park, for potential purchase by visiting members of the public, differs substantially from the "back yard" activities described by the Appellant. Nevertheless those activities, which consist of loading, unloading and storing deliveries; repairing and maintaining the sculptures and manufacturing appropriate bases and stands for their public display, have a clear functional link to the use of the Sculpture Park. The evidence clearly indicates that the activities carried out within the "back yard" are incidental, or ancillary, to the use of the Sculpture Park itself.
38. I conclude that the situation here falls within the first of the three categories outlined above: there is a single planning unit, consisting of the Sculpture Park and the Appeal Site. It is therefore unnecessary to vary the notice in the terms suggested by the JRRG at the first part of document ID 9.

The date on which the breach of planning control began

39. The next question to consider is the date on which the unauthorised material change of use took place. The evidence of Mr Edward Powell, the owner and Appellant, was that the Appeal Site has been used in connection with the Sculpture Park since it opened in April 2003, and is essential to its operation.

¹² *Burdle & Williams v SSE & New Forest DC* [1972] 1 WLR 1207

He described the Appeal Site as the Sculpture Park's "back yard", used for storage, deliveries, the maintenance and restoration of sculptures, fabrication of stands and bases, and other work needed to facilitate the running of the Sculpture Park. He referred to photographs obtained from Google Street View, dated June 2009 and October 2010, which show Sculpture Park items (including crates, sculptures, and a large circular base) being stored on the Appeal Site.

40. Mr Ruffe has worked at the Sculpture Park from 2005 to the present date, and gave evidence that throughout this period the Appeal Site has been in constant use as a back yard for the Sculpture Park. He described a double width track leading from the entrance gates to a storage and turning area, and said that all of this working area (identified as Area A on plan ID 8) was bordered with log edging and had an aggregate substrate dressed with gravel. His evidence was that goods were stored both on the track, and to the sides of the access under the tree cover, to the extent that the entirety of the area was utilised.
41. Mr Oscar Powell and Ms Gray, the Appellant's son and daughter, also gave evidence that since April 2003 the Appeal Site has always functioned as the back yard to the Sculpture Park, providing a "goods in, goods out" area and space for storage and maintenance that is out of the way of visitors to the Park itself. Mr Copping, a Planning Consultant whose practice has represented the Appellant since 2002, said that it was always his understanding that the Appeal Site was in use as part of the Sculpture Park. He provided a photograph taken on 18 September 2009 from the adjacent footpath, showing items being stored on the Appeal Site.
42. Mr Law, who gave evidence for the JRRG, took up residence at the property adjoining the Appeal Site in 2015. He said that prior to June 2016 he saw and heard very little activity on the Appeal Site, but then in June 2016 trees and bushes were cleared and burnt, an area of land was excavated and levelled with mechanical diggers, and sculptures were moved in. In March 2020 more trees and bushes were removed and burned, and machinery used to create a completely flat area. In April 2020 drainage ditches were dug in the front part of the Appeal Site, and hardstanding subsequently laid. The hardstanding was then used for storing sculptures and a variety of other objects, including caravans.
43. Mr Franklin also gave evidence for the JRRG. He took up residence of his property opposite the Sculpture Park in October 2014. He said that he could not be certain whether the Appeal Site was used for any storage in October 2014, but it was woodland, with no visible activity, until late 2016 or 2017 when trees and rhododendrons were removed and a large area in the middle was flattened, using heavy machinery. He described an incident in 2015 when his dog, then a puppy, escaped into the Appeal Site. Mr Franklin climbed over the rear fence and walked down through the Appeal Site searching for his dog, which he found and passed over the fence to his partner near the entrance. He said that so far as he could recall, while on the Appeal Site he had not seen anything stored on the land, or needed to evade any obstacles.
44. The JRRG pointed out that the documentation submitted with the 2002 and 2009 applications for planning permission does not mention any use of the

Appeal Site, and that the Sculpture Park has since its opening had a vehicular access track on its eastern side, leading to a turning circle, with a nearby workshop and shed. The JRRG contends that until 2017 the Appeal Site was dense with trees, rhododendron and laurel, such that the obvious choice for a “goods in / goods out” and maintenance area would have been the track and turning area in the eastern part of the Sculpture Park; it was the step-change in the operation of the Sculpture Park at some point after 2010, when the number of sculptures being brought to the site increased significantly, that precipitated the need for the Appeal Site to become a dedicated goods in / goods out area.

45. While this is a plausible argument, it is not well supported by the evidence currently available. The 2013 aerial photographs provided by the Council and the JRRG show a dense canopy formed by Scots Pines and other vegetation on and around the Appeal Site, which obscured from aerial view ground-level features such as Jumps Road and the footpath alongside the appeal site, and would also have obscured the hardstanding and items stored on Area A (whether by reference to plan ID 7 or plan ID 8). The “Proposed Site Plan”¹³ submitted with the 2009 application for planning permission does not label the Appeal Site as a “back yard” but does include it as part of the Sculpture Park, such that its authorised use (had planning permission been granted) would have been the same as that now alleged by the Notice.
46. Importantly, all of the witnesses who appeared for the Appellant confirmed, under affirmation, that the Appeal Site has been used for deliveries, storage and maintenance work since the date the Sculpture Park opened. Mr E Powell explained that hardstanding had been laid on Area A in 2003/2004, because using the forklift to load and unload deliveries had made a mess of the ground, so he and his staff put down hoggin (the same material used to create the paths around the Sculpture Park). He said that the first container load of sculptures acquired for the Sculpture Park arrived in 2005, and consisted of marbles from China. This container was delivered to, and unloaded on, the Appeal Site.
47. Mr Ruffe said that when he first started at the Sculpture Park in 2005, his work took him on to the Appeal Site approximately two or three times each week. Ms Gray explained that it would not be appropriate, or safe, for delivery vehicles to use the track and turning space on the eastern side of the Sculpture Park during opening hours while visitors were walking around.
48. In my judgment, the evidence provided by the Appellant as to the use of the Appeal Site is precise and unambiguous enough to show that a specific part of it (Area A, the dimensions of which I shall return to below) was more likely than not used for deliveries, storage and maintenance of items connected with the Sculpture Park from the date the Park opened in April 2003, and continuously over the next ten years. There is no evidence to contradict the Appellant’s version of events, or make it less than probable. I conclude that on the balance of probabilities, the unauthorised use of Area A began in April 2003, and continued throughout the next ten years. It follows that this unauthorised use became immune from enforcement in April 2013.
49. There is no argument that, having thus become lawful, this use was subsequently abandoned. Nor is there any dispute that the clearance and

¹³ Drg. no. WSP/SP/02

excavation works that commenced in June 2016 were to facilitate the increased use of the Appeal Site as a “back yard” for the Sculpture Park. Rather than a material change, or intensification of the existing use of Area A, this amounted to the commencement of the use in a new part of the Appeal Site: Area B. The Appellant accepts that Area B has not achieved immunity from enforcement.

Defining the extent of Areas A and B

50. The Appellant explained that Area A (that is, the area used as a back yard from April 2003 on which hardstanding was laid in 2003/2004) was covered over with fresh material at the same time as hardstanding was laid in Area B, in Spring 2020. As I saw at my site visit this means that it is not now possible to tell, simply by looking, the extent of the original hardstanding that constituted Area A. The Appellant has produced a plan (originally provided at Appendix 4 to Mr Copping’s Witness Statement, re-submitted as document ID 8), which was drawn up by an employee of WSPA and is dated February 2021. This shows the extent of the hardstanding currently on the site, sub-divided into Areas A and B: the position of the dividing line was as advised by Mr E Powell.
51. The Council and the JRRG accept that this plan is more accurate than the plan attached to the notice, in so far as it shows the area of hardstanding currently on the Appeal Site. However, they dispute the extent of the existing hardstanding identified as Area A, and have used the plan from Mr Copping’s Appendix 4 to produce an alternative plan [ID 7]. On this plan, the dividing line between Areas A and B is based on the photographs and aerial images submitted in evidence. The sole difference between plans ID 7 and ID 8, then, is the extent of the existing area of hardstanding identified as Area A and B. The question is which plan should be preferred.
52. Mr E Powell, Mr O Powell and Mr Ruffe confirmed the accuracy of Area A as identified on plan ID 8. Mr E Powell’s undisputed evidence is that he was responsible for, and involved in, the laying of hardstanding on this area in 2003/2004, and so it is reasonable to assume that he has a good knowledge of its extent. Mr Ruffe did not start work at the Sculpture Park until 2005, so was not present when the hardstanding was laid, but gave evidence that from 2005 he went to the Appeal Site two to three times a week. It is probable that he is therefore familiar with the extent of Area A. The evidence of Mr Copping, a professional planning consultant well aware of his duty to the inquiry, was that he has visited the Sculpture Park on numerous occasions since 2002, and knows Area A on plan ID 8 to have been in use for purposes in connection with the Sculpture Park for more than ten years.
53. Set against this, the extent of Area A detailed on plan ID 7 is informed by what can be seen in photographs showing views of the Appeal Site from Jumps Road in June 2009 and October 2010; the photograph taken by Mr Copping in 2009 from the footpath alongside the Appeal Site; and satellite images of the Appeal Site dated 2013, 2017 and 2018. The problem with this is that views of the Appeal Site in photographs from the adjoining road and footpath are largely obscured by the boundary fence: it is possible to glimpse some objects among the trees, but not possible to see the ground, or what might be on it. Similarly, as discussed above, views of the ground are screened by tree canopy in the 2013 satellite image. Many of the trees

were gone by the time of the 2017 satellite image, such that views of the ground in the relevant part of the Appeal Site are visible, but this does not assist in establishing the original extent of Area A prior to the recent clearance and excavation works which, on the undisputed evidence of Mr Law, began in June 2016.

54. In summary, while I am not satisfied that the available photographic evidence provides sufficient basis on which to reach a conclusive view as to the extent of Area A, I am satisfied that there is nothing in it that contradicts or undermines the Appellant's identification of Area A. In the absence of any other conflicting evidence, I consider that plan ID 8, the accuracy of which has been confirmed by four witnesses for the Appellant, should be preferred to plan ID 7.

Conclusions on ground (d)

55. For the reasons set out above I conclude that the alleged use of Area A as identified on plan ID 8, and the hardstanding laid in that area, are now immune from enforcement. The appeal on ground (d) therefore succeeds, and I shall give effect to this by varying the notice to remove Area A from its requirements, and by substituting plan ID 8 for the plan originally attached.

The appeal on ground (a)

56. The ground of appeal is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. I have concluded, in determining the appeal on ground (d), that the material change of use of Area A (and the hardstanding constructed to facilitate it) is immune from enforcement, so these matters do not constitute a breach of planning control. The scope of the appeal on ground (a), then, is whether planning permission should be granted for the material change of use of Area B and the construction of the hardstanding in this area.
57. The question of whether such planning permission should be granted turns on three main issues. Those are, firstly, whether the development would be inappropriate development in the Green Belt. Secondly, its effect on the character and appearance of the area, on its biodiversity, and on highway safety. Thirdly, if the development is inappropriate, whether the harm by reason of inappropriateness – and any other harm – would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Whether the development is inappropriate

58. The Appeal Site lies within the Metropolitan Green Belt. Paragraph 147 of the government's National Planning Policy Framework (NPPF) advises that "inappropriate development" is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The NPPF goes on to explain, at paragraph 150, that certain forms of development will not be inappropriate in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it. The list of these forms of development includes engineering operations, and the material change of use of land for outdoor sport or recreation.

59. The Council accepted that use of land as a sculpture park, arboretum and water gardens constitutes outdoor recreation, and in principle would not be inappropriate. However, it is important to be clear about the nature of development that is under consideration here. The evidence of the Appellant makes it very clear that the Appeal Site has provided, and would continue to provide, a "back yard" space with no public access. It is an area where deliveries are received and unloaded, sculptures and equipment stored, maintenance carried out, and stands and bases fabricated and repaired. The main body of the Sculpture Park consists of tranquil, landscaped gardens where paying visitors enjoy the ambience and contemplate the sculptures on display, whereas the back yard is a utilitarian area. The Appellant accepted that it looks, at times, like a storage depot.
60. The development for which planning permission is now sought is the utilisation of an additional area within the Appeal Site for this "back yard" use, and the works necessary to facilitate it. The parties agreed that any such permission should be subject to a condition preventing public access. While the hardstanding takes up little in the way of volumetric space, the stored items it has been constructed to accommodate are a different matter. The form and scale of each item varies widely, but the point is that their storage on Area B takes up space, and reduces the openness of the Appeal Site. The fact that the development of Area B does not introduce such storage for the first time, but takes place alongside the established use of Area A, does not mean that its impact on openness is rendered insignificant or "de minimis". Notwithstanding the potential to attach a condition limiting the height of items stored or stacked on the land, the presence of these objects clearly reduces, rather than preserves, the openness of an area that was formerly woodland.
61. I therefore conclude that the development here at issue cannot reasonably be categorised as preserving the openness of the Green Belt, and amounts to inappropriate development in the terms of the NPPF.

The effect of the development

62. Paragraph 148 of the NPPF states that substantial weight should be given to any harm to the Green Belt. It is therefore necessary to assess, and weigh in the balance, any other harm that results from the development in addition to the harm arising "by reason of inappropriateness".

Character and appearance

63. The Appeal Site lies within the Surrey Hills Area of Outstanding Natural Beauty (AONB) and Area of Great Landscape Value (AGLV). In my judgment, the limited size and scope of the development here at issue mean that it does not, as contended by the JRRG, qualify as "major development" such as would only be justified if it could be demonstrated that it were in the public interest.¹⁴ Nevertheless, the NPPF makes it clear that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs. This approach is reflected in Policy RE3 of the Waverley Borough Local Plan (Part 1) 2018, and in The Surrey Hills AONB Management Plan (2020 – 2025).

¹⁴ Per paragraph 177, and footnote 60, of the NPPF

64. The Appellant rightly points out that in order to assess the impact of the development on the character and appearance of the area, it is necessary to determine the baseline position. The distinctive character of this part of the Surrey Hills AONB is one of mostly undisturbed woodlands, in which development appears subordinate to the natural beauty of the landscape. The Appeal Site is enclosed by a fence and has large double gates at its entrance; these are features which would remain if the Enforcement Notice were upheld. Jumps Road runs along the southern boundary of the site and a public footpath adjoins the eastern boundary, providing public access to the heathland known as The Flashes and The Devil's Jumps. I have determined above that the use, and hardstanding, enforced against is lawful in Area A. The notice, varied as discussed above, does not require the reinstatement of the vegetation that has been removed from Area B, but does require that the land be restored to its former level.
65. Granting permission for the development of Area B would increase the space available for "back yard" use, and the extent of hardstanding on the Appeal Site. While not itself visible to the public, the additional hardstanding enables the storage of an increased number of sculptures and other items, visible in public views over the boundary fence from Jumps Road, and from the footpath to the Flashes and the Jumps. The sculptures - some large in scale, and many eye-catching by design - might be said to complement their setting when carefully spaced and displayed in curated settings around the Sculpture Park. But when clustered together, with maintenance equipment and other materials, for storage in the "back yard", the resulting visual clutter is an intrusive element which is at odds with the surrounding wooded landscape, and detracts from the natural beauty of the area.
66. I appreciate that these additional items would be seen in the context of the same use being made of Area A. But while I have found that the use of Area A has become lawful through the passage of time, that is not the same as finding it does not cause visual harm. In my view it does, for the same reasons as I have just set out above. Granting planning permission for the development here at issue would extend this use, and thereby increase the visual harm caused. And unlike the hardstanding on Area A, which followed the existing level of the land, the hardstanding on Area B was cut into a slope. The abrupt change in level highlights the jarring disparity between the respective appearances of the stored man-made items, and the undeveloped woodland beyond.
67. Policy P2 of the AONB Management Plan states that development should pay particular attention to potential impacts on tranquillity, as well as public views. It is fair to note that there is existing noise and disturbance arising from the lawful use of Area A, as well as the Sculpture Park and the Public House opposite, and traffic on Jumps Road. But it is also fair to note that increasing the extent of the "back yard" use that can lawfully be made of the Appeal Site would be likely to increase the number of delivery vehicles loading and unloading there, which would necessitate increased use of the forklift. It would also facilitate an increase in the amount of repair, maintenance and fabrication work carried out on the Appeal Site. All of this would have adverse impacts on tranquillity.
68. In summary, an area of the Appeal Site that was formerly woodland has been cleared, levelled and laid to hardstanding in order to provide additional

outdoor storage for sculptures, materials and equipment. This development harms, rather than conserves, the largely undisturbed woodland character of the surrounding countryside, and the amenity, landscape and scenic beauty of the AONB. In these respects it conflicts with the relevant national and local policies, and the Surrey Hills AONB Management Plan. In my judgment, this harm to the character and appearance of the area is a matter of considerable weight.

Biodiversity

69. The land to the north of the Appeal Site is designated a Site of Special Scientific Interest (SSSI) and a Site of Nature Conservation Importance (SNCI). It is also, under the Habitats Regulations which give effect to European legislation, designated as both a Special Protection Area (SPA) for three bird species (woodlarks, Dartford warblers and nightjars) and a Special Area of Conservation (SAC). The roadside verge along Jumps Road also has the designation SNCI because of the known presence of rare plants.
70. The Appellant has not submitted any ecological surveys, appraisals or other relevant evidence as to the impact of the development for which planning permission is now sought and the Council has not consulted English Nature, or provided any ecological evidence of its own. This is, to put it mildly, unhelpful.
71. The SSSI is of national importance for its invertebrates, birds and reptiles. The Committee Report on the Appellant's 2002 planning application for the Sculpture Park notes that the immediately adjacent area of the SSSI is managed by the Herpetological Conservation Trust, and is an important site for sand lizards. Sand lizards are a European Protected Species, which means the Habitats Regulations prohibit their disturbance, and damage to their breeding and resting places. SSSIs are protected under the Wildlife and Countryside Act 1981 from damaging operations, including development. As the Inspector appointed to determine the deemed planning application in this case, I have a duty under that Act to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest.
72. I simply do not have enough information to draw any conclusions about the impact, if any, that the development here at issue would have upon sand lizards or their habitat. There is no up-to-date evidence as to the extent, and range, of their presence and activities. I cannot rule out the possibility that they would be affected by the development of Area B.
73. Further, as the "competent authority" for the purposes of the Habitats Regulations, I have a duty to carry out a Habitats Regulations Assessment (HRA) to establish the effect of the development on the SPA and SAC. The first stage of the HRA is screening to establish whether there is a pathway for effect on the designated features of a European Site, and whether significant effects are likely. If significant effects are likely, the second stage is to carry out an "Appropriate Assessment" which establishes whether there would be adverse effects on the integrity of the designated features and if there are, how these could be modified through mitigation.
74. As the JRRG points out, the extent to which the bird species for which the SPA is designated may have made use of the Appeal Site land, so as to be

affected by the development of Area B, is unknown and in the absence of any ecological evidence, cannot be discounted. The Council accepted at the inquiry that it did not have objective information to suggest that there would not be a significant effect, and so an Appropriate Assessment may well be required. I am not satisfied that I have sufficient information to establish, as Stage 1 of the HRA, whether there is a pathway for effect on the designated features of the SPA and SAC that adjoin the Appeal Site and whether significant effects are likely.

75. The implications of all this are that were I otherwise minded to grant planning permission for the development, I would first need to consult Natural England (as the Government's statutory adviser on nature conservation) to inform my further consideration of potential impacts on the SSSI and European Protected Species, and any likely significant effects on the SPA and SAC. I shall return to this below.

Highway Safety

76. The submissions of the JRRG, and other local residents, contained a great deal of information and comment about parking along Jumps Road. The Council's Committee reports on the 2002 and 2009 planning applications identified this as a concern, and recommended that the proposed use of the nearby Public House's car park, to provide parking for visitors to the Sculpture Park, be secured through conditions and a S.106 legal agreement.
77. As set out above, no legal agreements were concluded, and no planning permission granted. Since the Sculpture Park operates in accordance with the Certificate of Lawfulness issued in 2014, rather than under the terms of a planning permission, it is not bound by any obligation to make provision for visitor parking. It is also fair to note that not all of those who park on the side of Jumps Road are visitors to the Sculpture Park; visitors to The Flashes and The Devil's Jumps also park there, to use the footpath that runs between the Sculpture Park and the Appeal Site.
78. The evidence of the JRRG and local residents is that parking along Jumps Road increased significantly in the years after the Certificate of Lawfulness was issued. At peak times, cars parked on both sides of the road caused problematic congestion, increasing the risk of conflict between road users. The Highway Authority has subsequently introduced double yellow lines along one side of the road, which have recently been extended, but the JRRG contends that while this prevents parking on the stretches of highway that are of most concern from a safety perspective, it simply displaces the problem elsewhere.
79. In the absence of any realistic option to access the Sculpture Park via public transport, and given that there are only around 10 off-road parking spaces available, it is clear that at busy times visitors to the Sculpture Park will need to find somewhere else to park. What is less clear is the extent to which, if at all, the development here at issue increases the existing pressure for parking.
80. The development of Area B would increase the "back yard" space available, but in a private area not accessible to the public. There would be no increase in the space available to display sculptures to visitors: the Appellant accepts that if planning permission were granted, it should be subject to a condition

preventing public access to the Appeal Site. The Council is content that, subject to conditions governing the provision of turning space and visibility splays, the development would be acceptable in highway safety terms.

81. The JRRG contends that if the Appellant is right in saying that the development of the Appeal Site is vital to the operation of the Sculpture Park, and if it has enabled the Sculpture Park to thrive through increasing visitor numbers, then it must be accepted that this has led to the exacerbation of customer parking and congestion along Jumps Road. That is a logical proposition, but I have not seen any persuasive evidence either that the development of Area B is vital to operations or that it has facilitated an increase in visitor numbers.
82. In his evidence to the inquiry, Mr E Powell was clear that he wished to engage with the Council and local residents to try to find a solution to concerns about visitor parking. He accepted that if planning permission were granted for the development, it should be subject to a condition requiring the submission, approval and implementation of a Travel Plan.
83. Taking all of this into account, I am satisfied that subject to the imposition of appropriately worded conditions, granting planning permission for the development would not have a significant adverse impact on highway safety.

Would the totality of the harm identified be outweighed by other considerations?

84. The considerations identified by the Appellant as weighing in favour of the development are the importance of the Sculpture Park as a tourist attraction; its economic benefits, both to the Borough and more widely; the employment it provides; and the fact that the use of the Appeal Site is vital to the operation of the Sculpture Park.
85. There is no dispute that the Sculpture Park is an important and valued tourist attraction, provides local employment and contributes to the economy. However, these are benefits which are attributable to the Sculpture Park as a whole, and existed prior to the development of Area B: put another way, there is no evidence to link these benefits to the specific development here at issue. I have accepted the Appellant's evidence that the use of Area A for "back yard" purposes has been an integral and important part of operating the Sculpture Park. This use has now become lawful through the passage of time, and so can continue. But I have not seen any evidence that extending the use of Area A into Area B was necessary.
86. There is, for example, no quantifiable evidence to demonstrate how refusing permission for the development of Area B might lead to the closure of the Sculpture Park, or jeopardise its future operation in any way. Nor is there any evidence that it would diminish the value of the Sculpture Park as a tourist attraction, reduce the employment it provides or lessen its contribution to the economy. I appreciate that having to find an alternative place to store the items currently on Area B would be likely to cause the Appellant inconvenience, but that does not equate to demonstrating that the continued use of this area is vital to his business.
87. I therefore attach only limited weight to the contended benefits of the development. Against this must be set the substantial weight of the harm

caused by inappropriate development in the Green Belt¹⁵, and the considerable weight of the harm I have identified to the character and appearance of the area. In my judgment, the harm clearly outweighs the benefit.

88. I have not been provided with sufficient evidence to establish whether the development is harmful to the biodiversity of the area. To reach a reliable conclusion on this matter, I would need to request further submissions - firstly from English Nature, and then from all three parties. However, there is no suggestion that the development would in any way benefit biodiversity. At best, it would have a neutral impact, at worst, a harmful one. This means that resolving the question of the impact on biodiversity would not affect the outcome of the planning balance I have set out above: it would either have no impact, or increase the weight on the "harmful" side of the balance. I therefore consider it unnecessary to pursue the matter further.

Conclusion

89. For the reasons set out above, I find that the totality of the harm caused by the development is not outweighed by other considerations, and so the "very special circumstances" necessary to justify development in the Green Belt do not exist. The appeal on ground (a) fails, and the deemed application for planning permission is refused.

The appeal on ground (f)

90. The ground of appeal is that the steps required by the notice exceed what is necessary to remedy any breach of planning control, or to remedy any injury to amenity which has been caused by any such breach. At the inquiry, it was (very fairly) accepted for the Appellant that arguments originally raised under this ground - concerning the accuracy of the plan attached to the notice, and the extent of the hardstanding required to be removed - would fall to be addressed in determining the other grounds. It was agreed that the appeal on ground (f) would not however be formally withdrawn, because the extent of any remaining argument on this ground would depend largely on the conclusions I reached in respect of the preceding grounds.
91. Of relevance, then, are my conclusions that plan ID 8 should be substituted for the plan attached to the notice; that the change of use of Area A, and the hardstanding which facilitated it, are now immune from enforcement; and that planning permission for the change of use of Area B, and the hardstanding which facilitated it, should not be granted. These findings, and the corrections and variations I shall make to the notice to give them effect, address the Appellant's original case on ground (f).
92. In fairness, I should note that while not explicitly an argument put under ground (f), it was clear from discussion at the inquiry that the Appellant objected to the proposed variation of the notice to include a requirement that the land identified as Area B be reinstated to its former level. I have set out, at paragraphs (b to f) above, the reasons why I consider this additional requirement is necessary: it follows that in my judgment, it does not exceed what is necessary.

¹⁵ Per paragraph 148 of the NPPF

93. In summary, to the extent that there is any remaining appeal on ground (f), it does not succeed.

The appeal on ground (g)

94. The ground of appeal is that the period specified in the notice for compliance with its requirements falls short of what should reasonably be allowed. The notice specifies a period of six months. The Appellant's case on this ground is that this is not sufficient time in which to find alternative storage space and remove the hardstanding, and would result in severe hardship to a small business: a period of nine months would be more reasonable. The Statement of Common Ground [ID 1] records the Council's agreement that the appeal on ground (g) should be allowed, and the notice varied to specify a compliance period of nine months.
95. The JRRG maintained its position that six months should be sufficient, pointing out that no explanation, or evidence, had been provided as to why a longer period of time was needed, and that in the event that the appeal on ground (d) succeeded, the Appellant would be able to continue using Area A. The appeal on ground (d) has succeeded, so the Appellant will be able to use Area A to provide some temporary storage for items displaced from Area B, while alternative provision is sought. However, the original requirement to remove the hardstanding remains, along with the new requirement to restore Area B to its former level. This will necessitate the sourcing, and transportation, of suitable material followed by grading works on site, once the hardstanding has been removed.
96. The Appellant had, but did not take, the opportunity to argue that the period for compliance would need to be increased to accommodate these additional works. I therefore proceed on the basis that the period of nine months agreed between the Appellant and the Council remains a reasonable amount of time to comply with the requirements of the notice, as varied.
97. The appeal on ground (g) succeeds, and I shall vary the compliance period from six months to nine months.

Overall Conclusions

98. For the reasons given above, I have concluded that the use of, and hardstanding laid upon, Area A is immune from enforcement, and that the period for compliance with the notice falls short of what is reasonable. I shall vary the notice by excluding Area A from its requirements, specifying its extent on a substitute plan, and extending the compliance period to nine months. The appeal on grounds (d) and (g) succeeds to that extent. However, I have found that the appeal should not succeed on grounds (c), (a) and (f). I shall therefore uphold the notice, with corrections and variations as detailed above, and refuse to grant planning permission on the deemed application.

Formal Decision

99. It is directed that the enforcement notice is corrected by:
- at paragraph 5(iii), deleting the word "in" and replacing it with the word "from"; and

- substituting the plan annexed to this decision for the plan attached to the enforcement notice

and varied by:

- at paragraph 5(i), between the phrases "Cease the use of the Land..." and "as a Sculpture park...", inserting a comma, followed by the phrase "WITH THE EXCEPTION OF the area identified as "A" on the attached plan,"
- at paragraph 5(ii), deleting the phrase "as identified by crosshatching on the attached plan" and replacing it with the phrase "from the area identified as "B" on the attached plan"
- at paragraph 5, adding the requirement "(iv) Restore the land, in the area identified as "B" on the attached plan, to its level prior to the breach of planning control."
- at paragraph 7, which sets out the period for compliance, deleting the phrase "six months" and replacing it with the phrase "nine months".

Subject to these corrections and variations, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Jessica Graham

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Stephen Whale, of Counsel

They called:

Instructed by Spencer Copping of WSPA

Nicholas Ruffe

Sian Gray

Oscar Powell

Edward Powell

Spencer Copping BA(Hons),

TP Dip, MRTPI

Brian Woods BA MRTPI

Sculpture Park employee

Sculpture Park employee

Sculpture Park employee

Appellant, owner/operator of the Sculpture Park

Director, WS Planning & Architecture

Managing Director, WS Planning & Architecture

FOR THE LOCAL PLANNING AUTHORITY

John Fitzsimons, of Counsel

They called:

Instructed by Lewis Jones of WBC

John Bennett

Senior Planning Enforcement Officer, WBC

FOR THE JUMPS ROAD RESIDENTS GROUP

Horatio Waller, of Counsel

They called:

Instructed by Emma O’Gorman of Pinsent
Masons

Phillip Law

Jonathan Wild

Richard Bourne

Arron Franklin

Local resident

Local resident

Local resident

Local resident

INTERESTED PERSONS

William Tate

Local resident

DOCUMENTS SUBMITTED AT THE INQUIRY

- | | |
|-------|--|
| ID 1 | Signed and dated Statement Of Common Ground, as agreed between the Council and the Appellant |
| ID 2 | Opening submissions made on behalf of the Appellant |
| ID 3 | Opening submissions made on behalf of the Council |
| ID 4 | Opening submissions made on behalf of the JRRG |
| ID 5 | Satellite image dated 25 March 2017, submitted by Mr Wild for the JRRG |
| ID 6 | Satellite image dated 23 June 2018, submitted by Mr Wild for the JRRG |
| ID 7 | Proposed plan for substitution with that attached to the notice, as agreed between, and submitted by, the Council and the JRRG |
| ID 8 | Proposed plan for substitution with that attached to the notice, as submitted by the Appellant |
| ID 9 | Note prepared by the JRRG, setting out proposed variations to the notice |
| ID 10 | Note prepared by the Council, amending the list of agreed conditions contained in the SOCG [ID 1] |
| ID 11 | Note prepared by the JRRG, setting out proposed additional conditions |
| ID 12 | Print of website article concerning measures to be introduced at Durdle Door to manage traffic and visitor numbers, submitted by Mr Tate |
| ID 13 | Closing Submissions made on behalf of the JRRG |
| ID 14 | Closing Submissions made on behalf of the Council |
| ID 15 | Closing Submissions made on behalf of the Appellant |



Plan

This is the substitute plan referred to in my decision dated: 2 February 2022

by **Jessica Graham BA(Hons) PgDipL**

Land at: The Sculpture Park, Jumps Road, Churt, Farnham GU10 2LB

Reference: APP/R3650/C/20/3264255

Not to scale

