PLANNING STATEMENT to accompany:

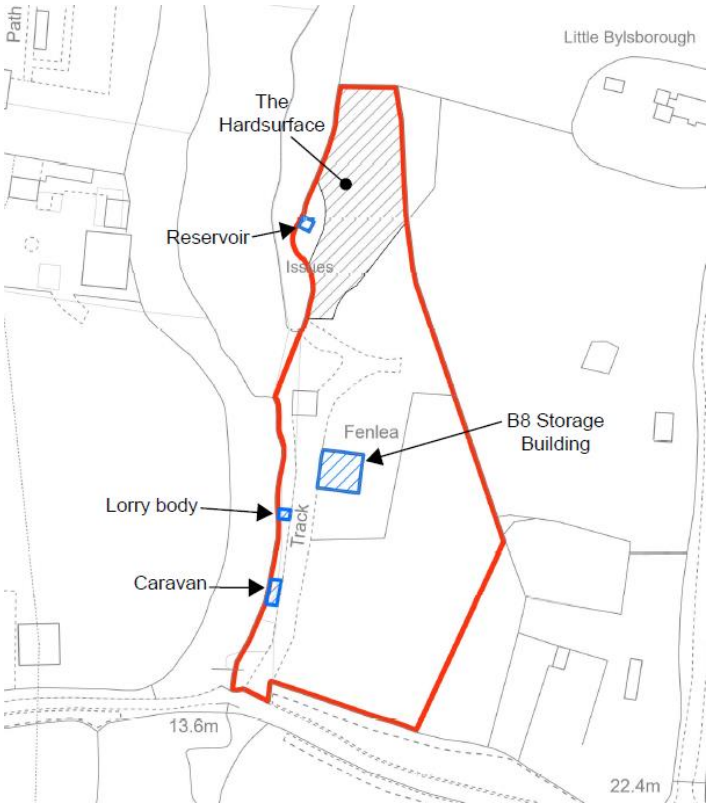
Lawful Development Certificate to confirm the existence of hardstanding (operational development) for more than 4 years.

LAND AT FENLEA, FURNERS LANE, WOODMANCOTE, WEST SUSSEX BN5 9HX

The site lies to the north of Furners Lane and to the east of Henfield within a countryside setting. Furners Lane runs for approx. 1km from the outskirts of the built-up area to a sporadic group of dwellings and farmsteads scattered along the lane.

The site itself comprises a parcel of land situated adjacent to a watercourse known as Turnhams Gill. The site forms the eastern slope of a shallow valley comprising a fold in the landscape adjacent to a stream and wooded area to the west and paddock land on rising ground to the east.

There is an existing track that leads from the entrance gate to a building further up the site. Behind the building, the land has been excavated by means of cut and fill method to form a level area upon which a hardstanding (shown hatched on the plan extract below from the Enforcement Notice served on 10 January 2024) has been laid more than 4 years as confirmed by the Council's own evidence and the historic aerial photos within this statement.



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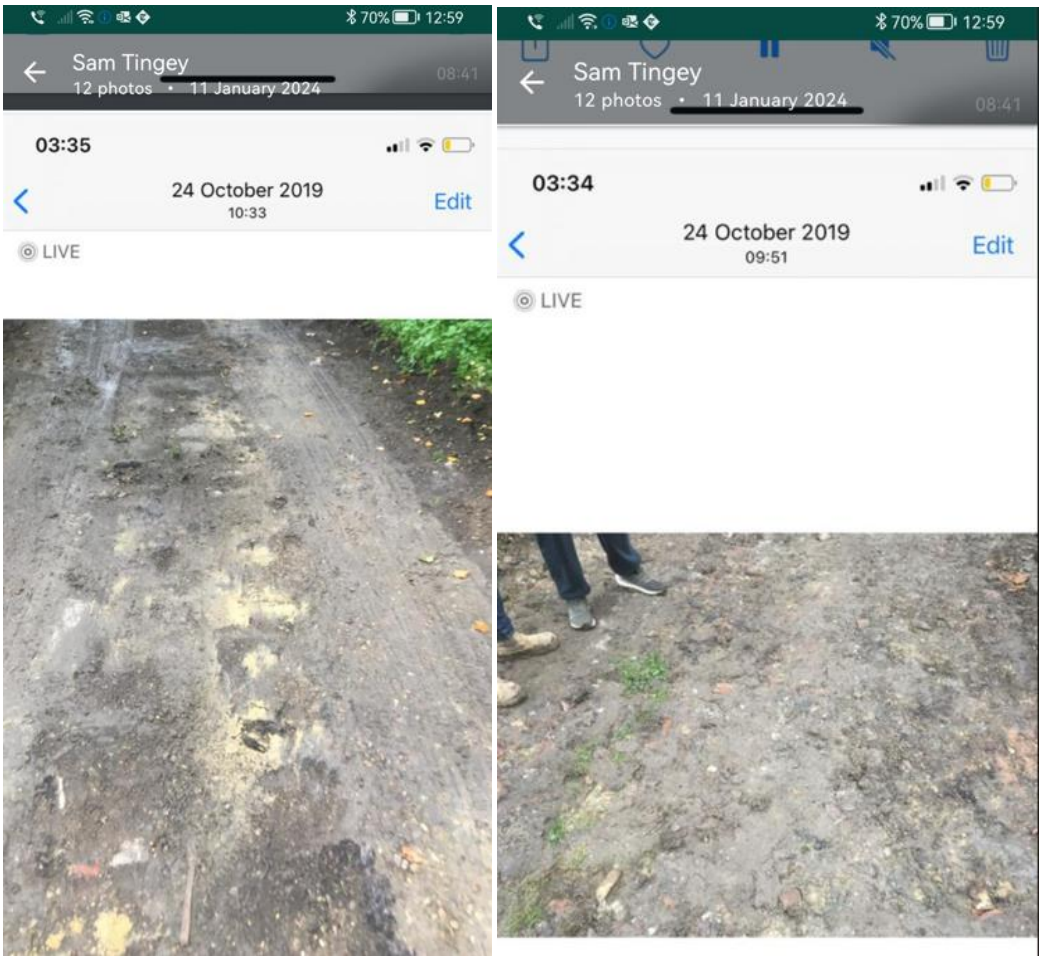
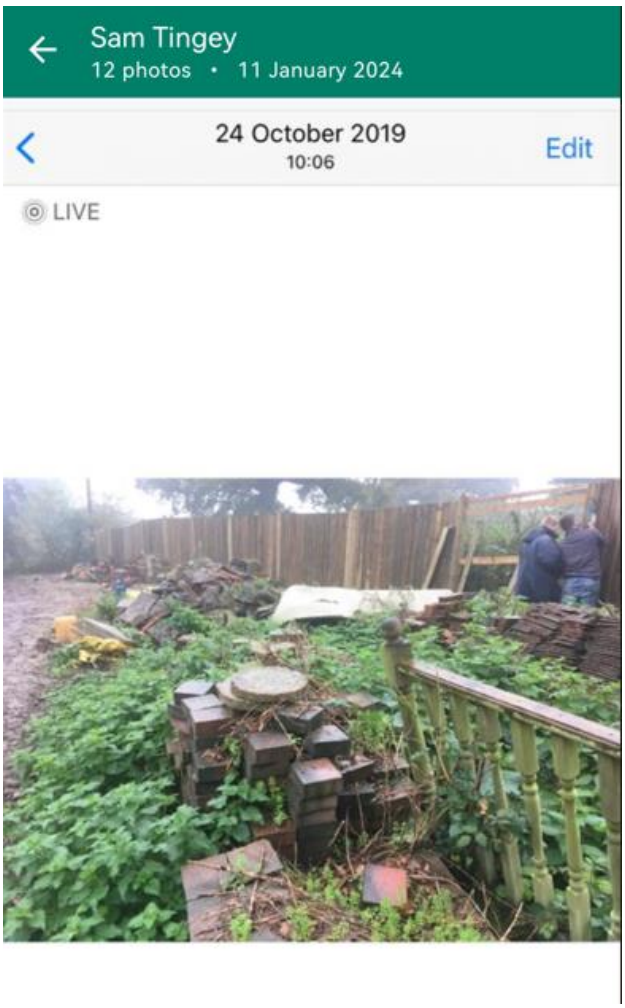
On the basis that an Enforcement Notice served on 10 January 2024, it is necessary to evidence that the hardsurfacing has been in situ for more than 4 years **(i.e. it was already in place prior to 9 January 2020).**

The Council acknowledge that pursuant to complaint reference EN/19/0563 - Alleged: Unauthorised development involving importation of aggregate that a Temporary Stop Notice **issued on 21.11.2019** (reproduced at **APPENDIX 1)** **following** reports of hardsurface area being laid at the north end of the site on levelled ground adjacent to the reservoir/natural spring.

The applicants bought the land around July 2019. They were wholly familiar with the extent of the hardstanding and use of the land on the basis that the adjacent land at Pear Tree Farm to the immediate west having been within the family ownership for decades.

The photos below taken in **October 2019** all within the **hardsurface area** subject of this application show the scraping back of the overgrowth to confirm the extent of the pre-existing hardstanding.







The photos below taken in **November 2019** again all within the **hardsurface area** subject of this application show the extent of the pre-existing hardstanding. All the applicant has done was to maintain the existing hardsurface area. Section 55 2 (b) below confirms that this is not development in any event.

Section 55 - Town and Country Planning Act 1990 Part III - Meaning of development

*(2)The following operations or uses of land **shall not be taken for the purposes of this Act to involve development of the land**—*

(a)the carrying out for the maintenance, improvement or other alteration of any building of works which—

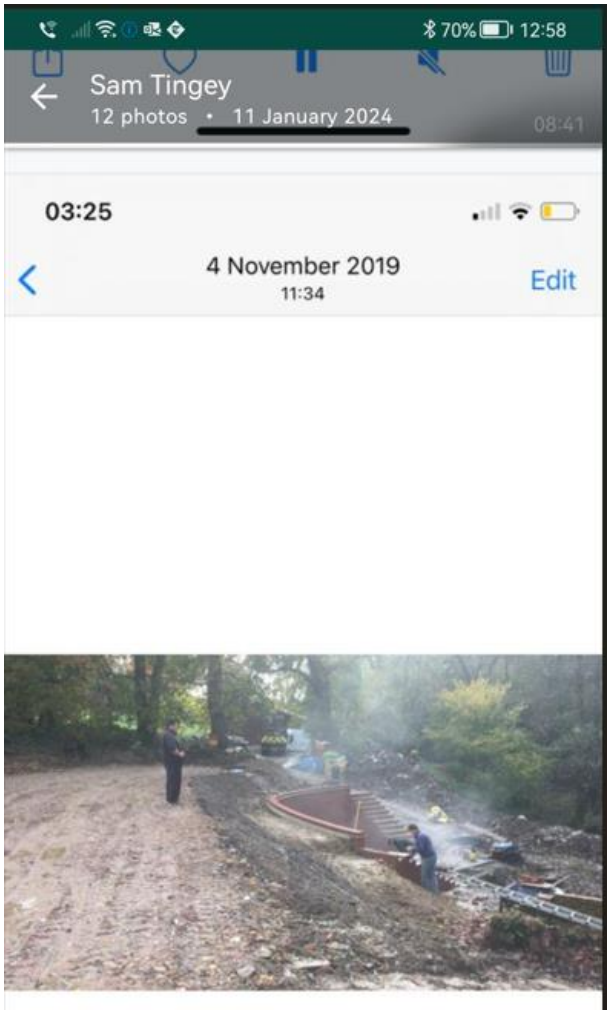
(i)affect only the interior of the building, or

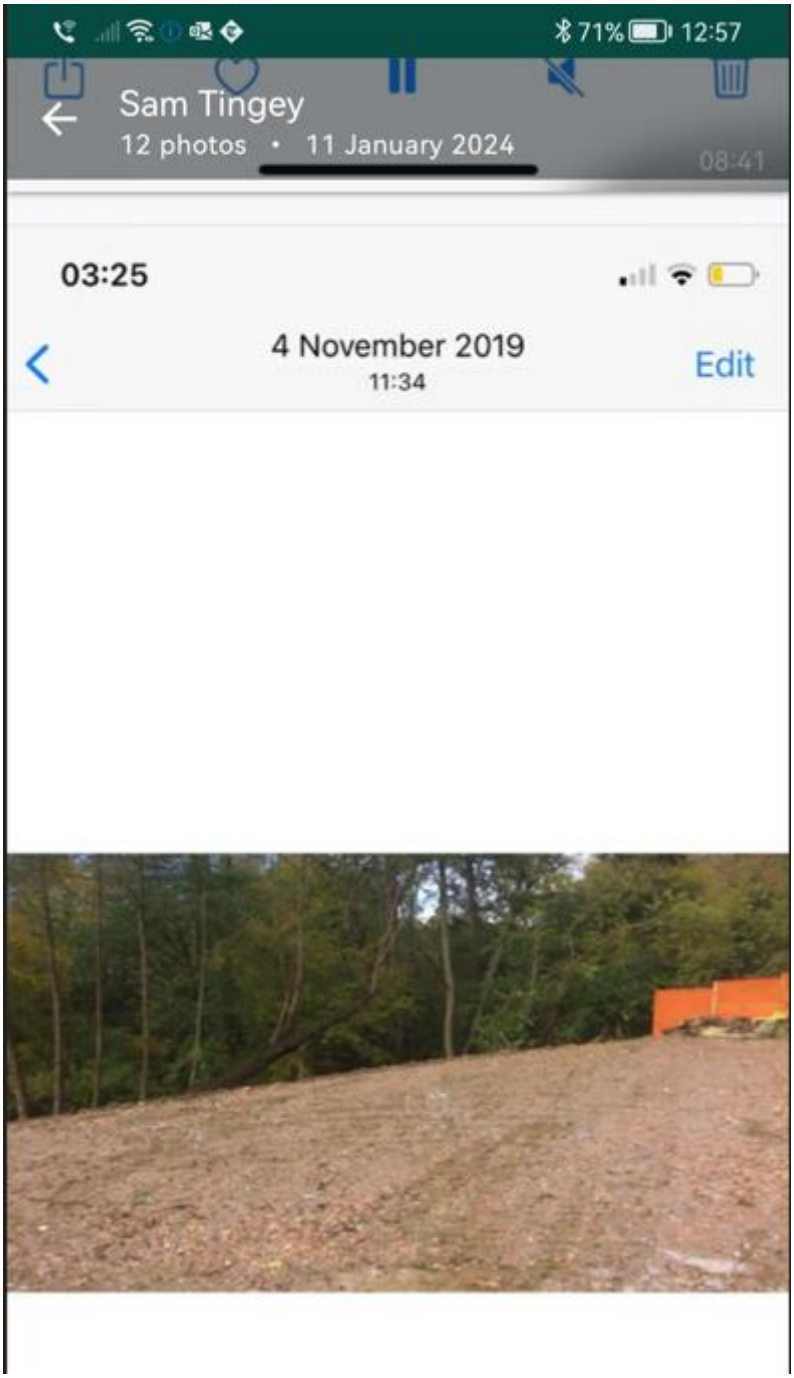
(ii)do not materially affect the external appearance of the building,

and are not works for making good war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground;

(b)the carrying out on land within the boundaries of a road by a F2. . . highway authority of any works required for the maintenance or improvement of the road [F3but, in the case of any such works which are not exclusively for the maintenance of the road, not including any works which may have significant adverse effects on the environment.







Above – The 4 November 2019 photo below **is the same part of the site (confirming the hardstanding area has remained in situ for far in excess of 4 years)** as in the July 2022 photo below from the Council's Delegated Enforcement report dated 10th August 2022



This statement forms the evidence for a **Certificate of Lawfulness of Existing Development** to be submitted to Horsham District Council. This statement has been put together using the evidence that forms the planning history and following conversations with the applicants to confirm **how they have continued to use the site for B8 open storage since the land has been in their ownership.**

To be precise and remove any ambiguity this Certificate of Lawfulness relates to the 'red line area' equivalent to the area the Council consider is unauthorised.

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Above – March 2022 aerial photo with hardstanding circled yellow.

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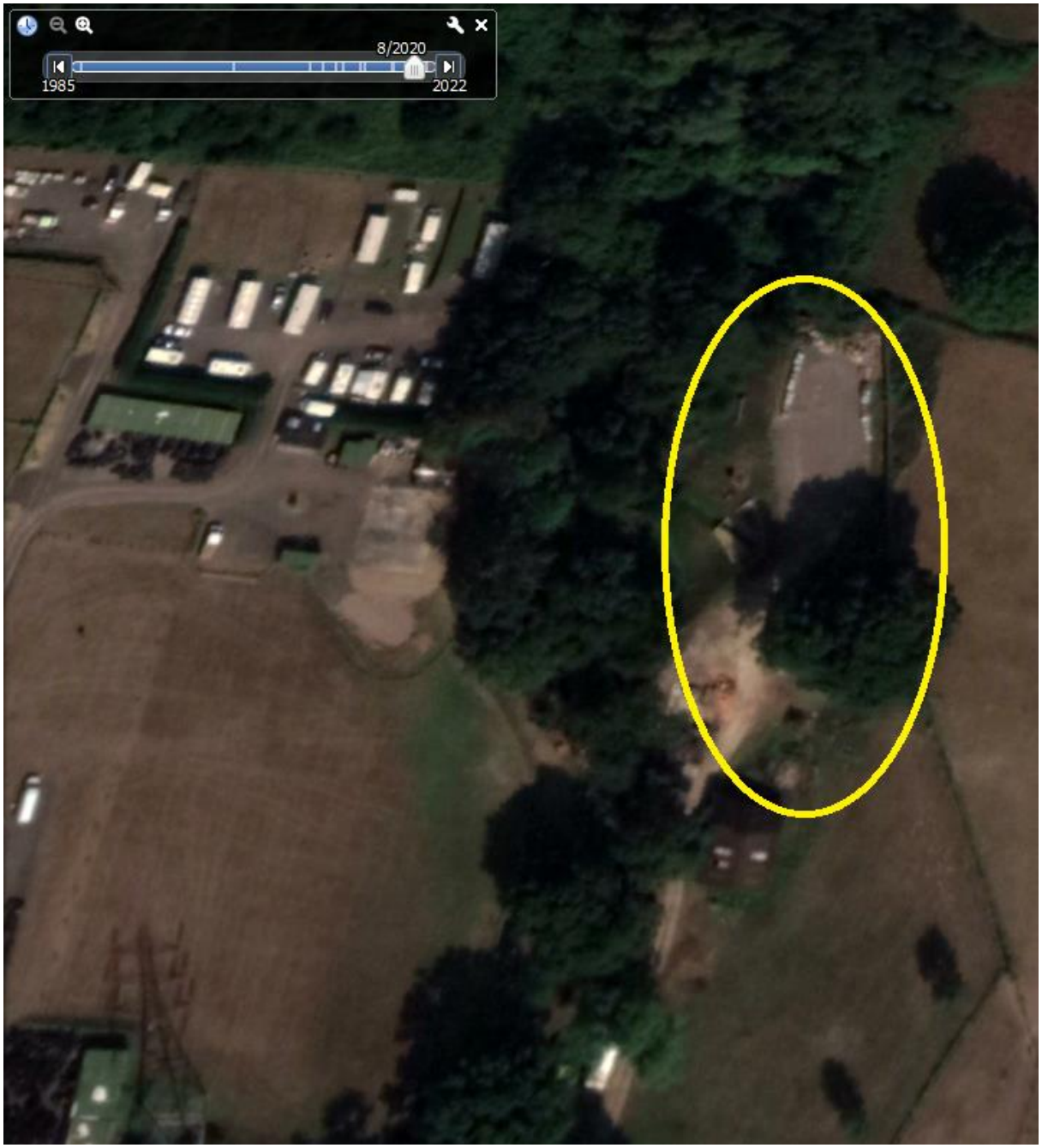

Above – August 2020 aerial photo with hardstanding circled yellow.

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Above – April 2020 aerial photo with hardstanding circled yellow

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Above – August 2018 aerial photo with hardstanding circled yellow. Comparison with the 2015, 2013, 2012 and 2009 aerial photos below highlights that the permeable hardstanding remains albeit it has grassed over in places.

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Above – September 2015 aerial photo with hardstanding circled yellow

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Above – June 2013 aerial photo with hardstanding circled yellow

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Above – September 2012 aerial photo with hardstanding circled yellow

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Above – December 2009 aerial photo with hardstanding circled yellow

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Analysing the historic aerial photos above together with the applicant photos and the Council's own evidence it is clear to see that a hardsurface area has been in situ for far more than 4 years.

The evidence contained within this planning statement has been prepared in accordance with the guidance on Lawful Development Certificates contained within PPG on "Lawful development certificates" especially para 006 Reference ID: 17c-006-20140306. which states, "As this test will accordingly be applied by the Secretary of State in any appeal against their decision, a LPA should not refuse a certificate because the applicant has failed to discharge the stricter, criminal burden of proof, namely "beyond reasonable doubt". Moreover, the Court has held (see *F W Gabbitas v SSE and Newham LBC* [1985] JPL 630) that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If the LPA have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate "on the balance of probability".

Thank you in advance of your balanced consideration of the proposed application.

Please maintain a dialogue with myself and the applicants if you have any questions, concerns or matters that require further elaboration.

Prepared by Phil Rowe, BA Hons, BTP

PROwe Planning Solutions, 07946 641835

APPENDIX 1

IMPORTANT: THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (as amended by the Planning and Compulsory Purchase Act 2004) ("the 1990 Act")

TEMPORARY STOP NOTICE

Served by: HORSHAM DISTRICT COUNCIL ("the Council")

Ref: EN/19/0563
To:

(1) The Occupier(s) of Land adjacent to Pear Tree Farm, Furners Lane, Woodmancote, Henfield, West Sussex, BN5 9AE;

(2) Charles Tingey of Laurel House, Lawyers Lane, Henfield BN5 9QS;

(3) Charles Tingey of Land adjacent to Pear Tree Farm, Furners Lane, Woodmancote, Henfield, West Sussex BN5 9AE;

(4) Sampson Tingey of Laurel House, Lawyers Lane, Henfield BN5 9QS;

(5) Sampson Tingey of Land adjacent to Pear Tree Farm, Furners Lane, Woodmancote, Henfield, West Sussex BN5 9AE;

(6) The Owner(s), Land adjacent to Pear Tree Farm, Furners Lane, Woodmancote, Henfield, West Sussex BN5 9AE;

1. The Council considers that there has been a breach of planning control on the land described in paragraph 4 below. The breach of planning control is:

   Unauthorised operational development and engineering operations taking place on the land.

2. This temporary stop notice is issued by the Council, in exercise of their power in Section 171E of the 1990 Act, because they think that it is expedient that the activity specified in this notice should cease on the land described in paragraph 4 below. The Council now prohibits the carrying out of the activity specified in this notice. Important additional information is given in the Annex to this notice.

3. **THE REASONS FOR ISSUING THIS NOTICE**

3.1 The unauthorised development and engineering operations taking place on the land have resulted in the removal of landscape features and the creation of an unnatural feature is which is considered to have a detrimental impact on the character and appearance of the surrounding area.

1

3.2 The operational development and engineering operations taking place on the land without the necessary planning permission are considered to be contrary to Policies 25 (Strategic Policy: The Natural Environment and Landscape Character), 26 (Strategic Policy: Countryside Protection) and 33 (Development Principles) of the Horsham District Planning Framework 2015.

4. THE LAND TO WHICH THIS NOTICE RELATES

Land adjacent to Pear Tree Farm, Furners Lane, Woodmancote, Henfield, West Sussex, BN5 9AE shown outlined in red on the attached plan.

5. ACTIVITY TO WHICH THIS NOTICE RELATES

The unauthorised operational development and engineering operations taking place on the land include the excavation of the land and the importation of material in the formation of a hardstanding and alterations to a building.

6. WHAT YOU ARE REQUIRED TO DO

Cease with immediate effect all the unauthorised activities specified in paragraphs 1 and 5 of this notice.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on **21st November 2019** when all the activity specified in this notice shall cease. This notice will cease to have effect on 20th December 2019.

Dated: 21st November 2019

Signed: S. L. Evans

Sharon Evans
Head of Legal and Democratic Services

On behalf of: HORSHAM DISTRICT COUNCIL, PARKSIDE, CHART WAY, HORSHAM, WEST SUSSEX RH12 1RL

Nominated officer: Reg Hawks

Telephone Number: 01403 215076