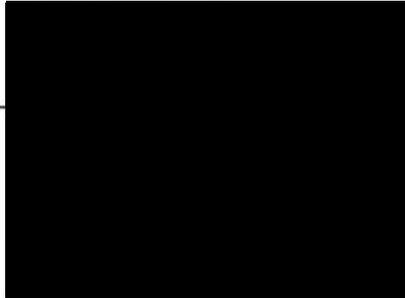


Patrick Cluxton MRICS

Chartered Surveyor

*Building Design Expert Witness Specifications
Planning Applications and Appeals
Building Regulations Applications*



JRP Enf ES1

Jaymini Patel and Ravindra Ashabhai Patel

- v -

South Staffordshire Council

ENFORCEMENT NOTICE APPEAL

STATEMENT OF CASE

EXECUTIVE SUMMARY

17 March 2025

Patrick Cluxton MRICS



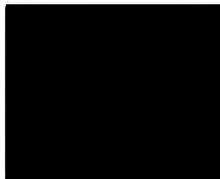
EXECUTIVE SUMMARY

- ES1. South Staffordshire Council have issued an Enforcement Notice against Jaymini Patel, the Sole Proprietor of land to the North of 12 The Highfields, Wightwick, Wolverhampton WV6 8DW. The notice was also Served against Ravindra Ashabhai Patel, Mr. Patel has a personal interest in the land.
- ES2. The Enforcement Notice refers to paragraphs in the National Planning Policy Framework and Policy GB1 of the Core Strategy in the Local Development Plan. Our Appeal does not rely on Ground A and there is no Deemed Planning Application. Therefore the planning issues under planning policies are not for consideration and the Appeal does not require a fee payment to the Local Planning Authority.
- ES3. A Design is in place which could be created at the discretion of the Appellants.
- ES4. The Council have titled the Enforcement Notice as "Change of Use". We ask the Inspector to put the Council to a strict test and to require the Council to describe specifically the Change in Use which has occurred within the last 10 years; the date to be taken being the 26 February 2015. Under Ground B we say that a Material Change of Use took place in 1961 at the latest and the matters alleged in the Notice have not occurred within the last 10 years: That the Land Enforced against has been domestic residential garden land in association with 12 The Highfields for at least 64 years and there is no evidence to the contrary.
- ES5. Under Ground C the alleged matters cannot constitute a breach of planning control because the Material Change of Use occurred before the Enactment of the Town and Country Planning 1990 and before the introduction of Planning Policy Guidance Note 2 "Green Belts".
- ES6. This Legislation cannot be applied retrospectively and the matters alleged in the Notice are Immune from Enforcement Action: They have not "occurred," in Planning Law.
- ES7. Under Ground D we say that the matters alleged in the Notice occurred, ipso facto, more than 10 years ago and the Use of the land changed before modern Planning Legislation was Enacted. We ask the Inspector to put the Council to a strict test in relation to the Lawfulness of the Enforcement Notice at the date of Service.
- ES8. Under Ground F we say that the Enforcement Notice goes beyond the powers of a Local Planning Authority in any event.
- ES9. The Inspector has the power to uphold the Notice, to vary and uphold the Notice or to Quash the Notice.
- ES10. We submit that, on the facts and evidence; the Notice cannot be upheld and the Notice is not available for variation.

ES11. Although it is available for a Local Planning Authority to Serve any number of Enforcement Notices on the same site, at any time: If the Inspector is minded to Quash this Notice; there would appear to be no prospect that South Staffordshire Council could believe that a second Notice should be Served.

ES12. We hereby ask the Inspector to Quash the Notice completely.

Thank You for your consideration of our Appeal.



17/03/2025

Patrick Cluxton MRICS

for and on behalf of

Jaymini Patel and Ravindra Ashabhai Patel

APPELLANTS

Patrick Cluxton MRICS

Chartered Surveyor

*Building Design Expert Witness Specifications
Planning Applications and Appeals
Building Regulations Applications*

JRP Enf A1

Jaymini Patel and Ravindra Ashabhai Patel

- v -

South Staffordshire Council

ENFORCEMENT NOTICE APPEAL

STATEMENT OF CASE

17 March 2025

Patrick Cluxton MRICS



Formalities

1. The Enforcement Notice is dated 18 February 2025, and was Served on Jaymini Patel and Ravindra Ashabhai Patel. Jaymini Patel is the Sole Registered Proprietor of the Land Enforced against in Title Number SF 469642.
Mr. Patel has no Legal Interest in the land and it was unnecessary for Mr. Patel to be included in the Notice. Mr. Patel has a personal interest in the land. Mr. Patel accepts the Notice and joins Mrs. Patel in the Appeal.
2. The Southern boundary of the land Enforced against is on the boundary of South Staffordshire with Wolverhampton which is in the West Midlands. The Notice was Served on an address which is within the City of Wolverhampton and not in South Staffordshire. As to Authority, South Staffordshire Council and the City of Wolverhampton Council have joint jurisdiction over the Southern boundary of the Appeal Site. The Enforcement Notice requires work to the joint boundary and the City of Wolverhampton Council should have been consulted and a Joint Notice should have been issued (if the City of Wolverhampton Council would have been content that a Notice was justified to be Served on an address within their Jurisdiction and if the City of Wolverhampton Council would have been content that work to the joint boundary could have been rightly included in any Enforcement Notice). My Clients accept the Enforcement Notice dated 18 February 2025 as valid. The Inspector may not be content.
3. The Red Line Plan attached with the Enforcement Notice is not correct. The area shaded Blue is within the Registered Title of 12 The Highfields, Wightwick, Wolverhampton WV6 8DW. Ravindra Ashabhai Patel is the Sole Proprietor of this property in Title Number WM 203139. The drive shared by 2,4,6,8,10 and 12 The Highfields is included in Mr. Patel's Title (with Rights of Access for Nr.s 2,4,6,8 and 10).
Mrs. Patel has a separate Right of Access to her land, from the shared drive; across land in Title Number SF 277148 (that land appears to be owned by a property on Farleigh Road]. The Appellants accept the Red Line Plan attached with the Enforcement Notice; with the Inspector in knowledge of the mistake.

GROUNDNS B, C and D

Background

- B1. The matter begins with two letters from South Staffordshire Council, Planning Enforcement dated 19 July 2024; one to "Mr. Patel", the other to "Jaymini Patel". The letters give my Clients two alternatives and state that any retrospective planning application would not be approved. Appendix 1.
- B2. The Council's position is repeated in an email to Mr. Patel dated 8 October 2024; with more detail. Appendix 2.
- B3. Mr. and Mrs. Patel instructed a Planning and Building Consultant to respond to the correspondence and a Formal Pre-Application Enquiry was submitted by email and post on 31 October 2024. Appendix 3. In principle the Appellants volunteered to reduce an area of gravel used for off-drive parking and to re-surface that smaller area with a self draining material commonly used for parking on sites in the Green Belt. A smaller area of Grass block was offered to give dry maintenance access to a proposed private orchard. The remainder of the Appeal Site was allocated for wildlife planting. The proposed planting was described in detail and a Plan was attached with the Enquiry.
- B4. South Staffordshire Council, Acting as Local Planning Authority responded by letter dated 23 December 2024. Appendix 4. The letter states that the proposal would not be likely to be looked upon favourably by a planning officer.
- B5. The Enforcement Notice was issued on 18 February 2025 and takes effect on 21 March 2025; but the Notice is Appealed.

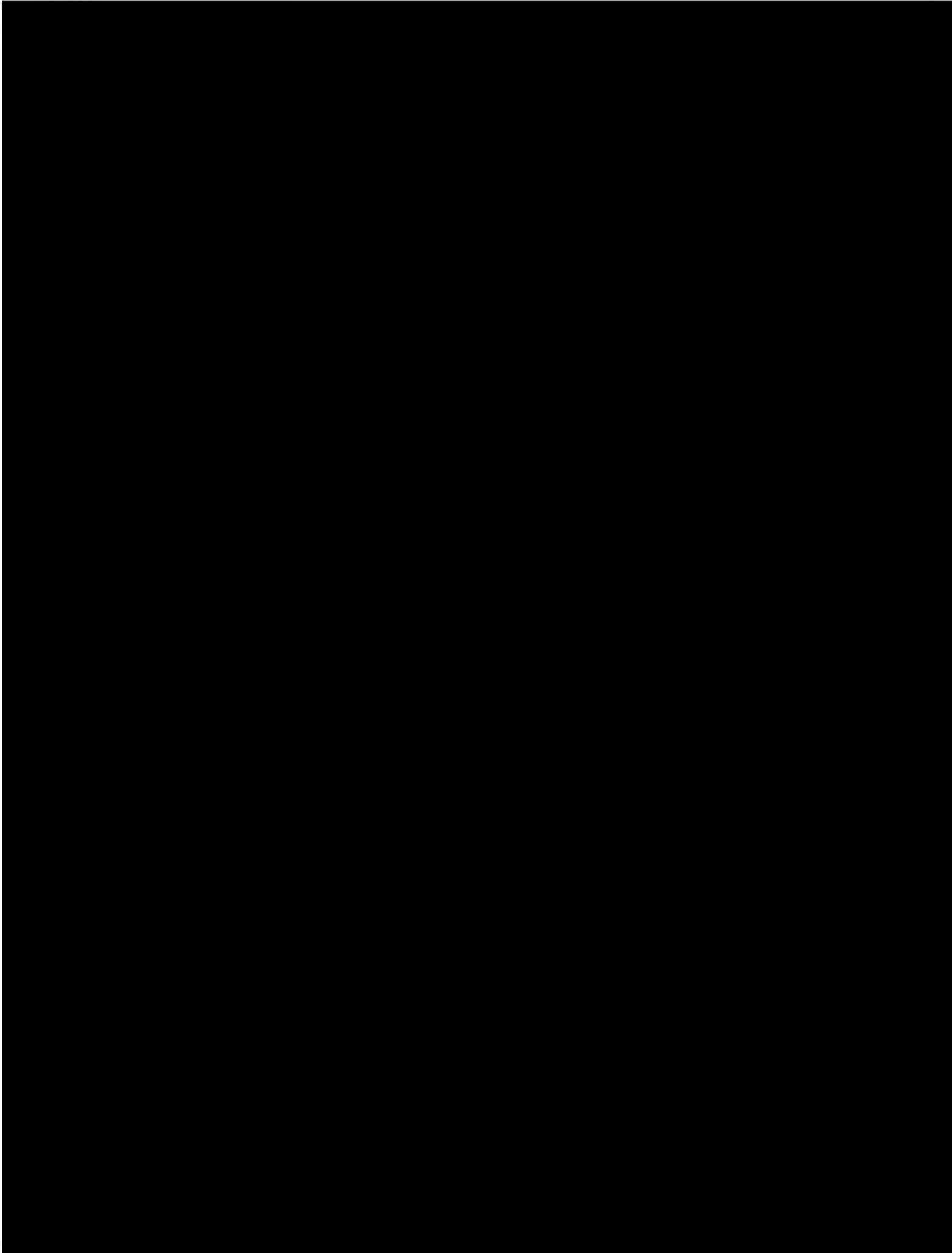
Grounds

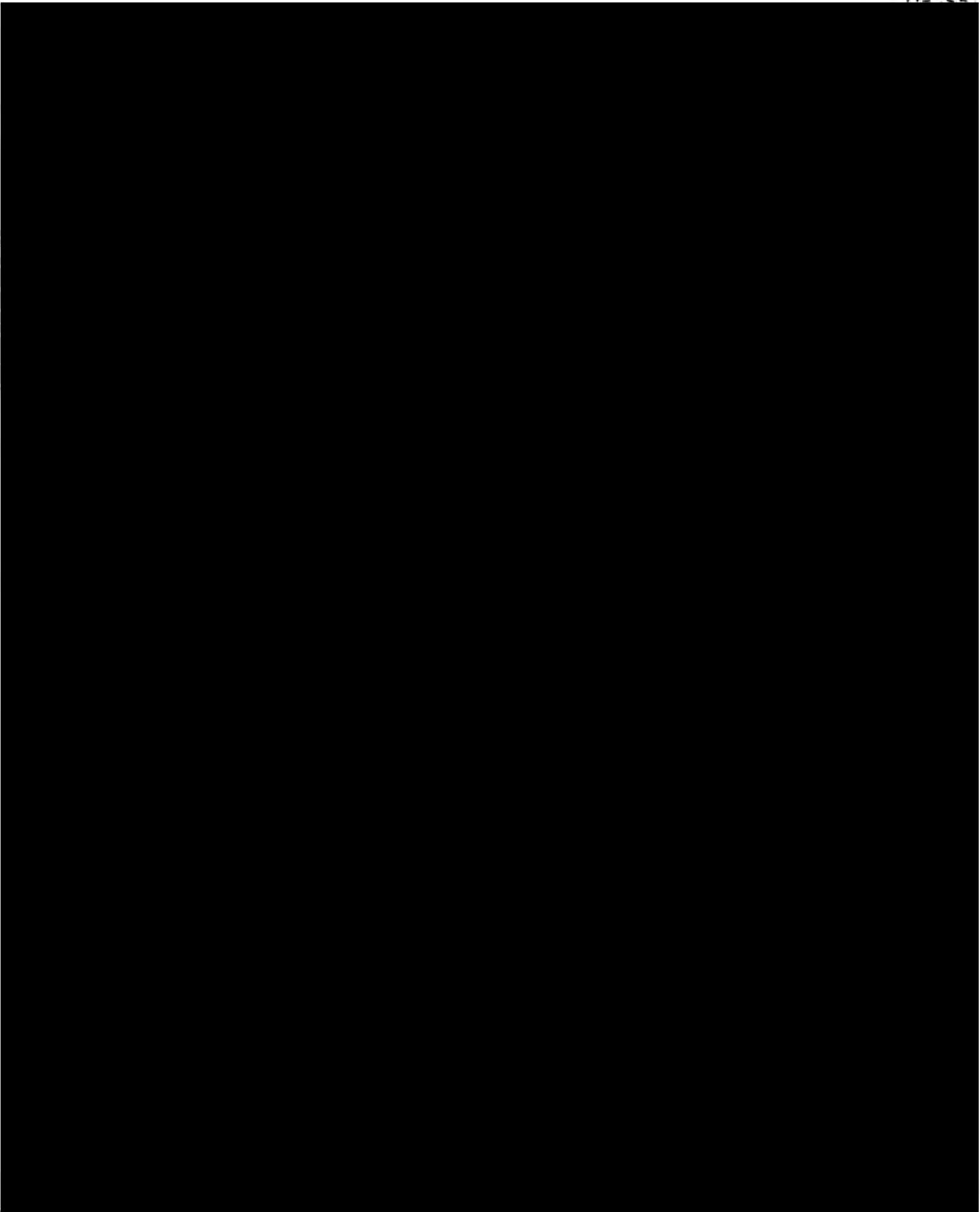
- G1. The Appeal Site is an area of amenity land for 12 The Highfields, Wightwick, Wolverhampton WV6 8DW. The land, and the surrounding area were historically in agricultural use. The area has been developed successively, mainly for housing leaving the Appeal site and adjoining land to the West as a "fragment" of farmland; looking for a new use or uses.
- G2. The Enforcement Notice claims that a material change of use has occurred less than ten years ago. (3. and 4.). The Notice requires, inter alia; that the land must be restored to its "original" condition. (4. iii). The "original" condition is not described.
- G3. In order for the Enforcement Notice to be effective, the Local Planning Authority, Enforcement Team must show and prove that a material change of use has occurred less than ten years before the Notice was Served; and therefore on or after 19 February 2015; under s171B of the Town and Country Planning Act 1990 "Time limits".
- G4. The Act is amended by the Levelling Up and Regeneration Act 2023 (LURA) (Commencement No. 4 and Transitional Provisions) Regulations 2024/452 which came into force on 25 April 2024 and before the Enforcement Notice was Served. Operations which were substantially completed before 25 April 2024 continue to enjoy Immunity from Enforcement Action after 4 years. The gravel and the plant plots were placed on the land in 2019 and they are Immune from Enforcement Action; as an "Operation" which was complete well before 25 April 2024.
- G5. It falls to be considered when the agricultural use of the Appeal Site, and the surrounding land was lost. In order for the Council to show and prove a material change of use on or after 19 February 2015; the Council will need to show and prove that the land was in agricultural use on and after that date. That would then be the "original" condition in Planning Law. The Inspector must put the Council to a strict test.
- G6. Our case is that the agricultural use ceased in 1961 at the latest. This is evidenced by a Conveyance dated 11 December 1961. The Conveyance divided a fragmented piece of farmland into five plots, to include the Appeal Site. The plots were immediately sold to "Sub-Purchasers".

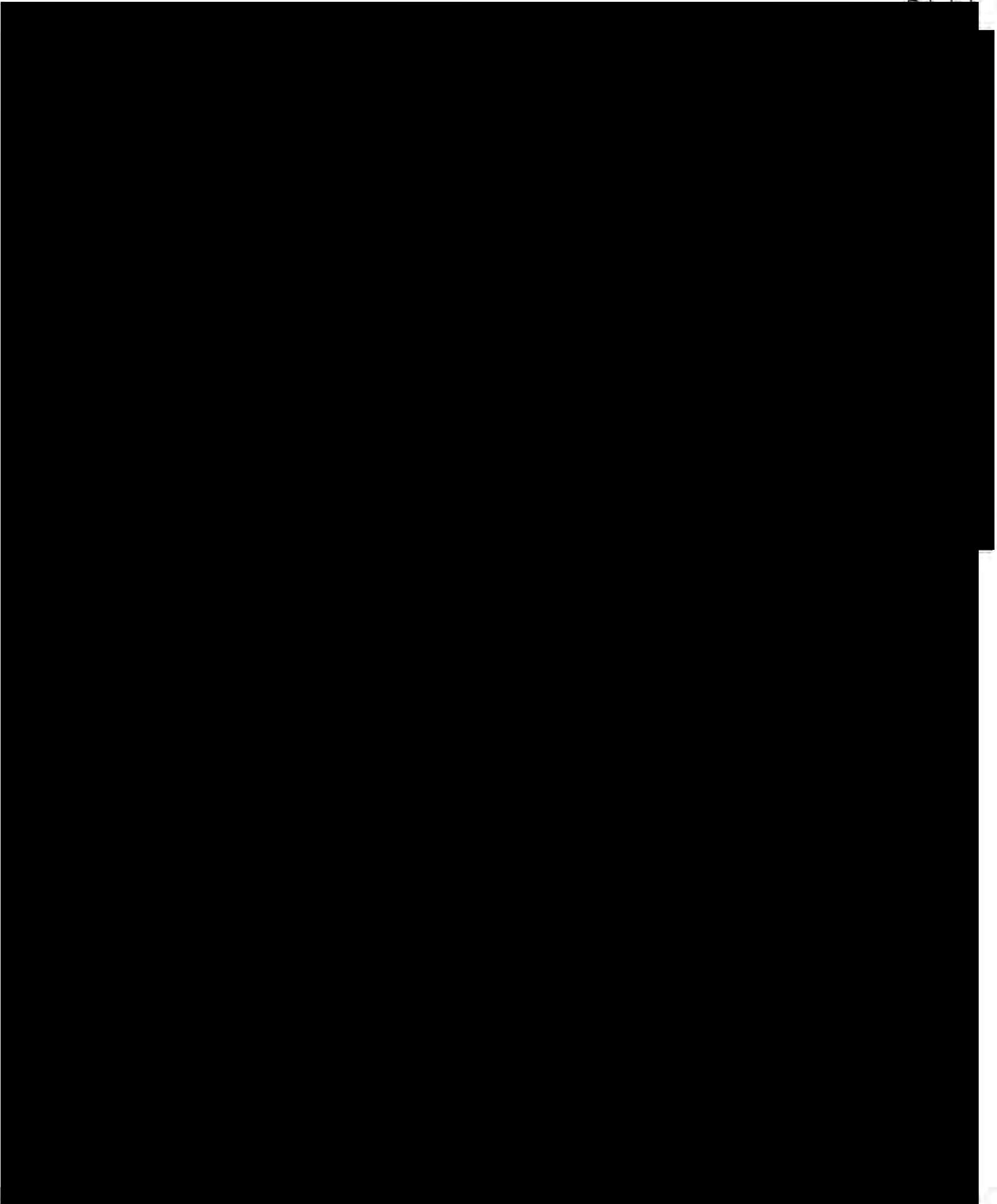
G7. The Conveyance includes Covenants:

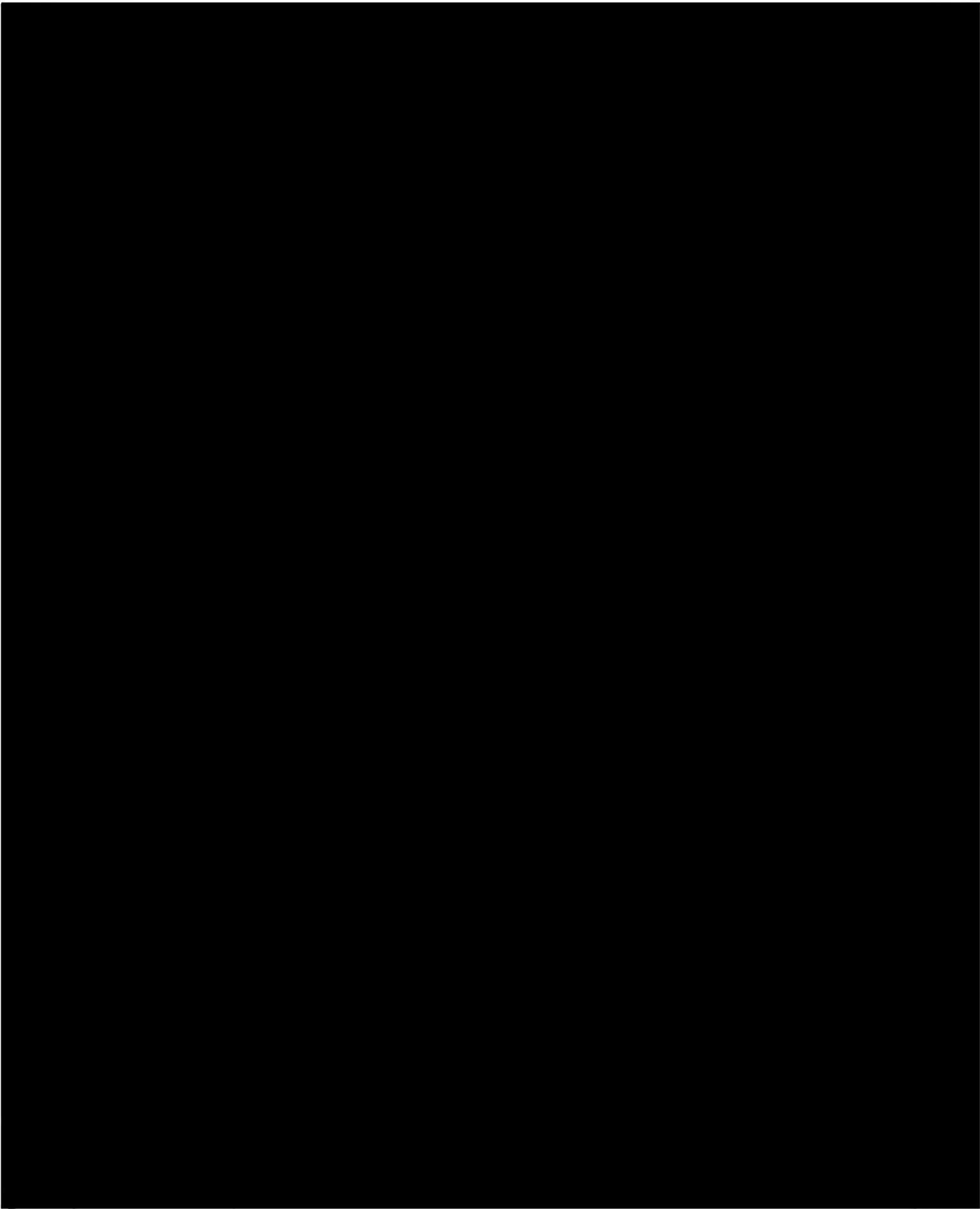
1. A stock-proof fence to be erected along the north boundary (for all five plots) (not the South boundary).
2. A shared Right of Access along the drive to the plots is granted.
3. The Right of Access for Plot 5 across Plot 4 is coloured Blue on the plan referred to (in the SE corner).
4. A stock proof fence to be erected along the west boundary of Plot 5 (not the South boundary).
5. No business or profession to be carried out on the lands (nor on part(s) thereof).
6. No Livestock except ponies or horses belonging to the owner/occupier(s) of the adjoining dwelling house (same for all Sub-Purchasers).
7. No excavations "save only as may be necessary for cultivating or laying out the same as a garden".
8. The erection of one dwelling house with outbuildings is allowed subject to the house being set back at least fifty feet from the "private roadway known as The Highfields".

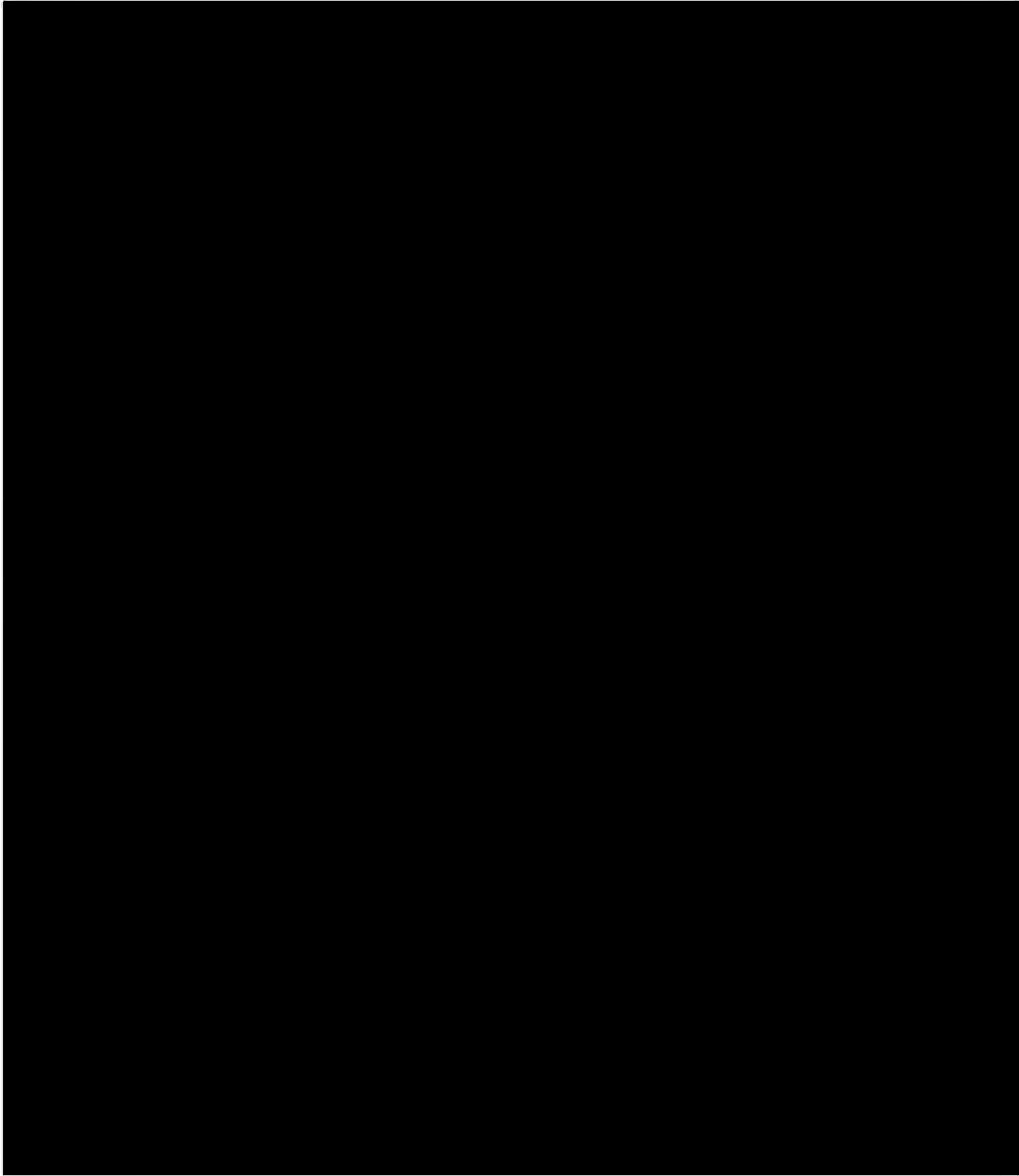
G8. The Conveyance is now included in its entirety to include the PLAN REFERRED TO and the plots identified separately by numbers added to a Title Plan.

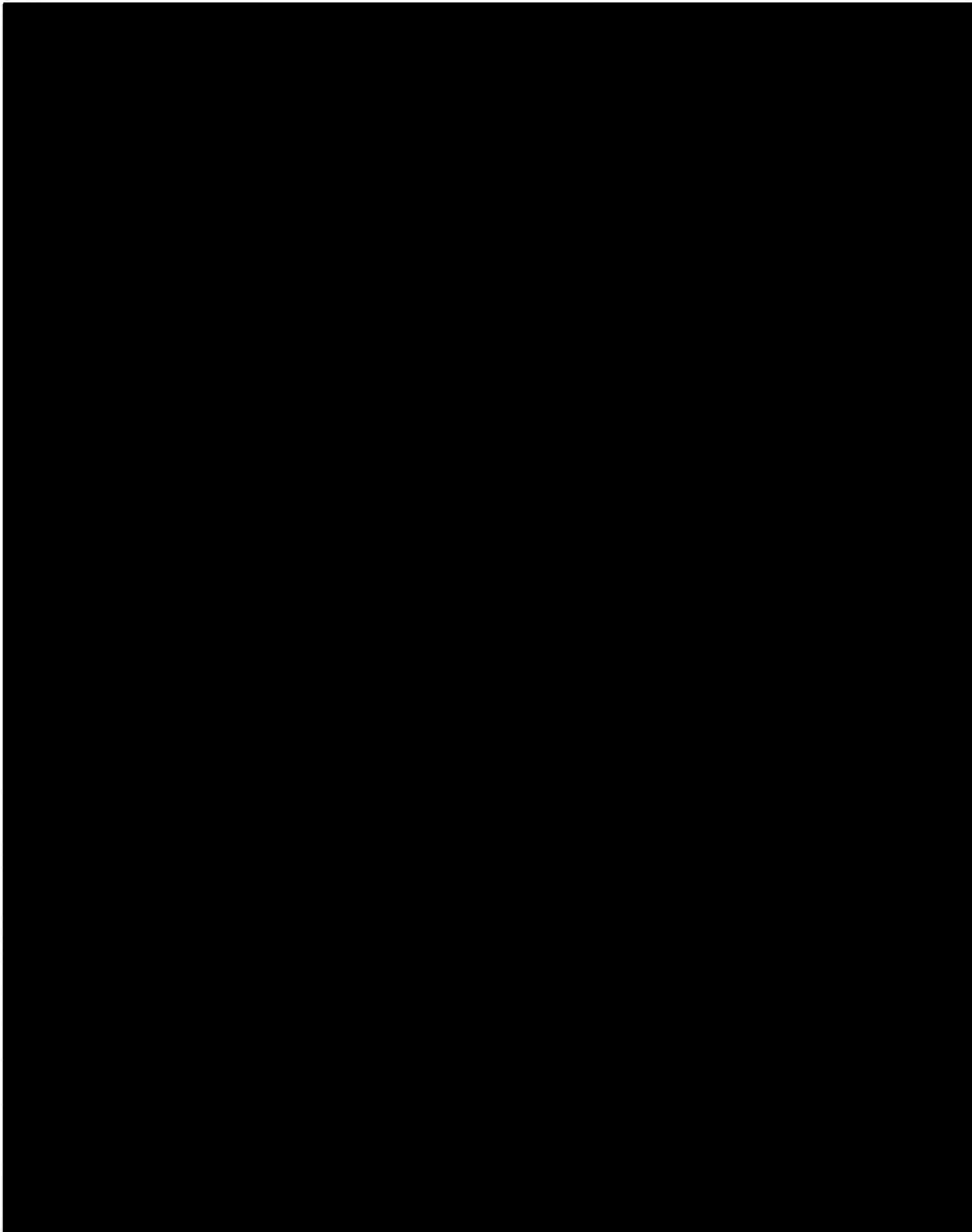


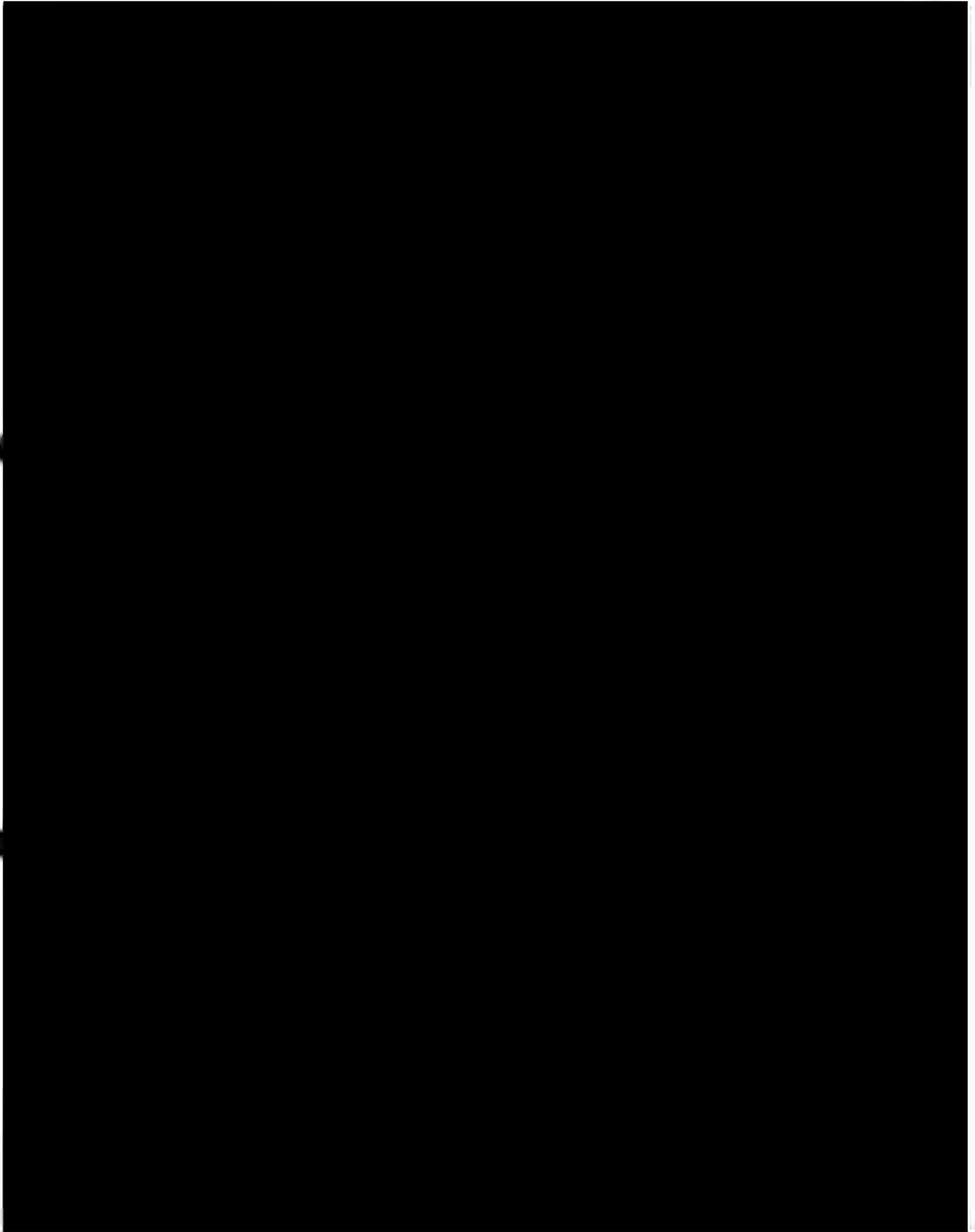


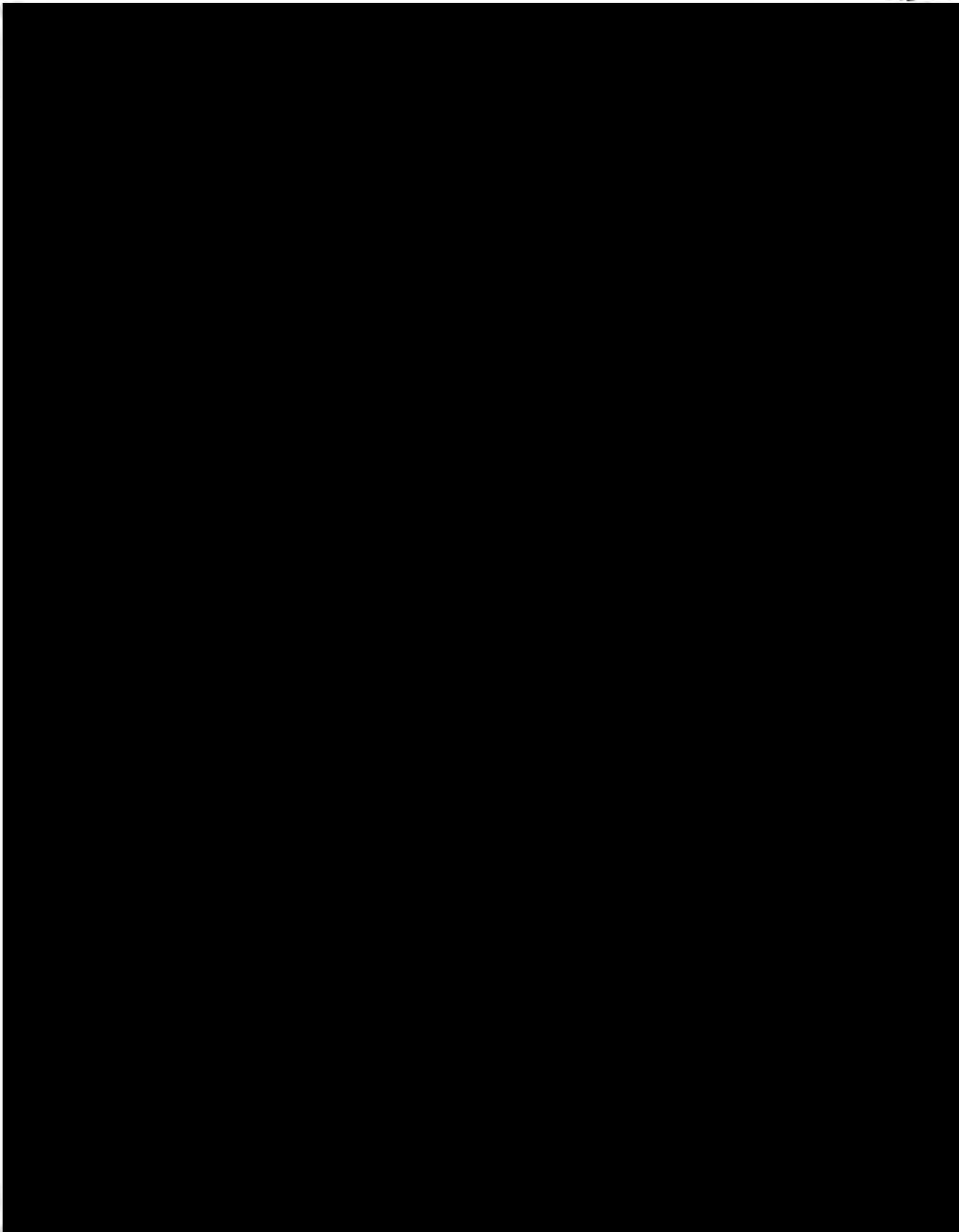


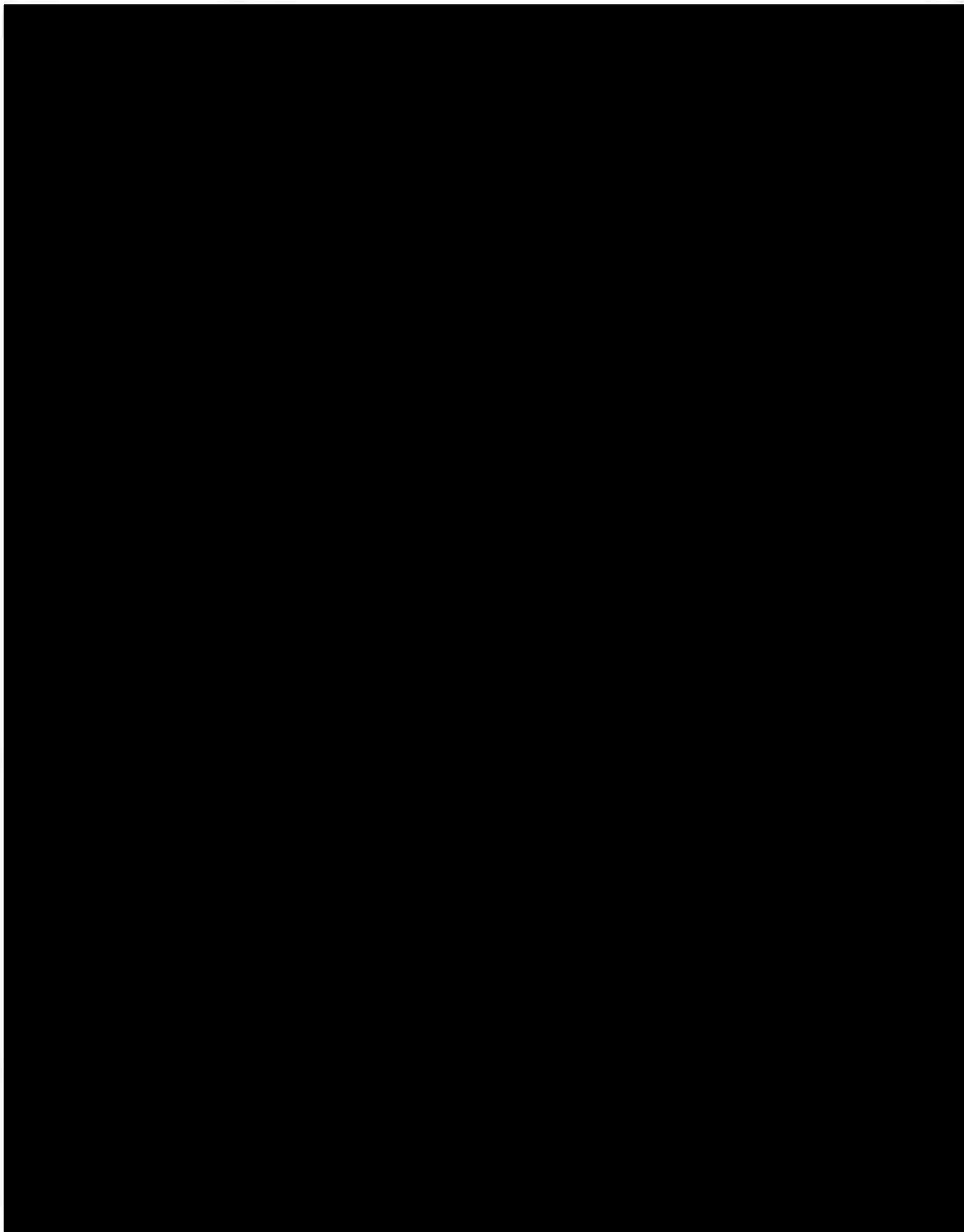


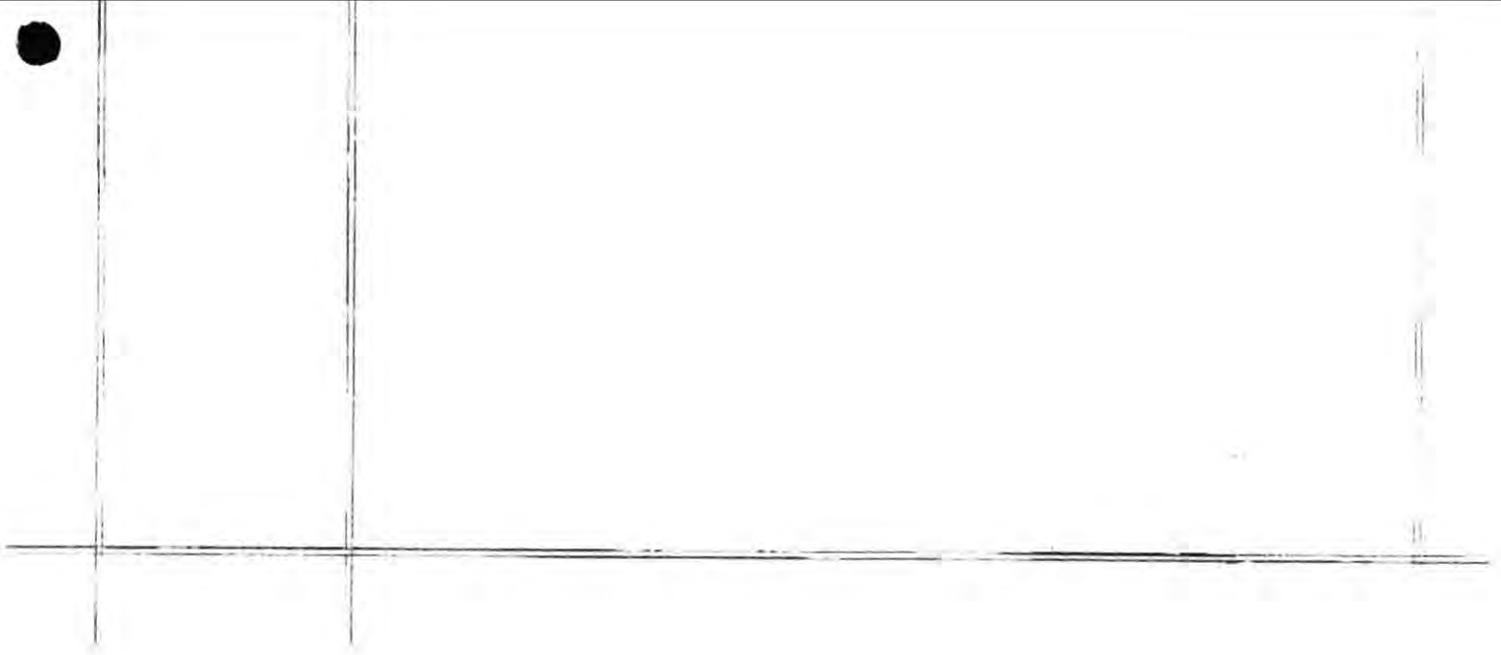
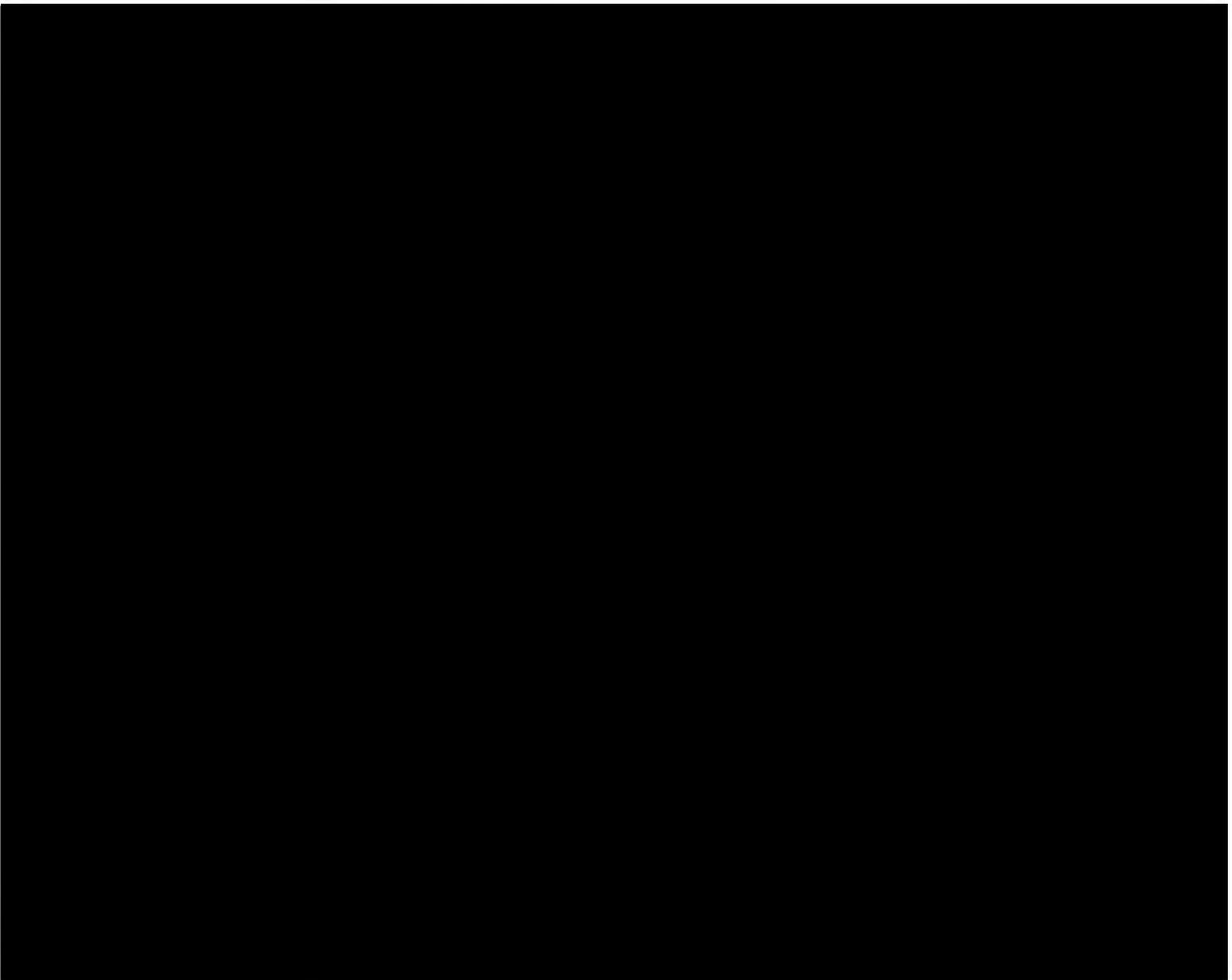




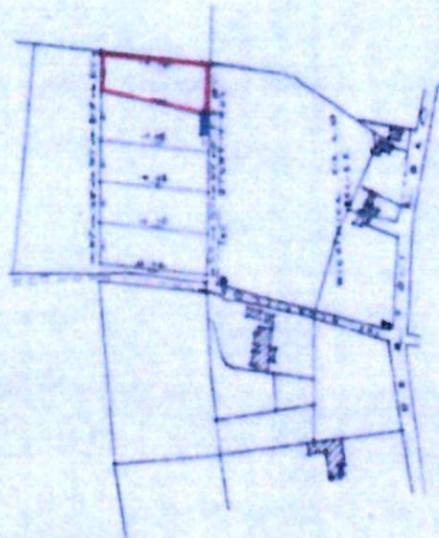








PLAN REFERRED TO

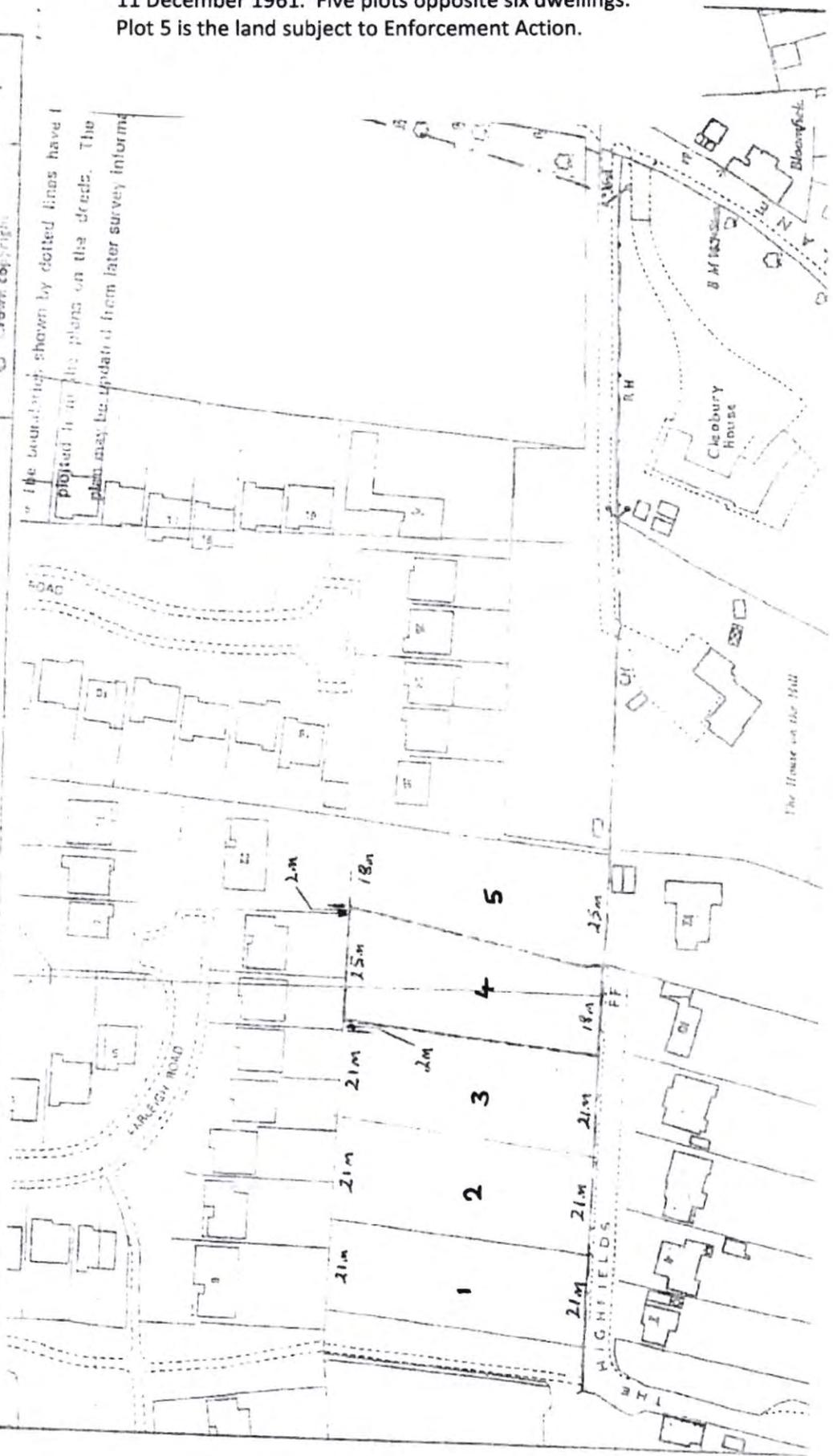


SCALE 1/2500
REDUCED FROM O.S.
DUNCALFE, MATON & GARDAUER SURVEYORS WOLVERHAMPTON

Title Plan for Title Number SF 277148
 Giving Plot Numbers to the five plots identified on the
 Plan referred to attached with a Conveyance dated
 11 December 1961. Five plots opposite six dwellings.
 Plot 5 is the land subject to Enforcement Action.

H.M. LAND REGISTRY		TITLE NUMBER	
ORDNANCE SURVEY PLAN REFERENCE		SF 277148	
COUNTY	DISTRICT	SECTION	Scale
STAFFORDSHIRE	SOUTH STAFFORDSHIRE		1/250
			© Crown copyright

The boundaries shown by dotted lines have been plotted from the plans on the deeds. The plan may be updated from later survey information.



- G9. This evidence shows and proves that the material Change of Use occurred at least 64 years ago and the garden land now seen is Immune from Enforcement Action.
- G10. More than that; the Change of Use occurred before the Town and Country Planning Act came into force in 1990 and an Enforcement Notice relying on s171 cannot be upheld.
- G11. The change of use occurred before the designation of Green Belt land began with Planning Policy Guidance Note 2 "Green Belts" which came into force in 1995.
- G12. Following the sale of the fragment in 1961, at £350 a plot; the plots were not developed for housing before 1990 nor before 1995 when Green Belt Policies came into force. The land on the South side of The Highfields in Wolverhampton, has been developed, to include Nr. 12 and Perton has expanded South, in South Staffordshire; with the rear gardens of dwellings along Farleigh Road now touching the rear boundaries of the plots. Although the plots have been in residential use since 1961, the plots have not been developed before 1990 nor to date. Notwithstanding; we say that the Act does not influence the Appeal Decision. The plots, left undeveloped, offer a wildlife corridor between the very open Green Belt Countryside to the West and the green spaces to the East.
- G13. Plot 1 is somewhat different to the other four, having been partly planted with fruit trees and with boundary hedges, now well mature.
- G14. The other four plots have been kept mown and plain and car parking has taken place on all five plots in later years.
- G15. Satellite Images show the treatment of the plots over time.
- G16. Although not specifically mentioned in the Enforcement Notice, the Council have previously stated that plant pots on the land are objectionable. 4. i) could be construed to refer to the plant pots.
- G17. We say that the plant pots are de minimis in any event and that they are kept on Bona Fide Garden Land.
- G18. 4. ii) requires the removal of the loose gravel and the cessation of the use of that land for off-drive parking.
- G19. We say that the spreading of gravel on any land, including Green Belt land is beyond Planning Control in principle. As a matter of fact and degree the gravel here cannot be described as an Engineering Operation and is no more than gravel spread on residential land, which has been residential land since 1961 at the latest. "Green Belt" is a land designation and not a Land Use and we say the gravel is beyond Planning Control in itself.
- G20. The Council then object to the parking of cars on the gravel area in connection with 12 The Highfields.

- G21. Vehicles are moveable and do not come into the definition of "Development" at all. Certainly Traffic Generation, Access and Off-Road Parking Provisions are often part of Planning Applications (which may be Approved, Withdrawn or Appealed, if Refused).
- G22. The situation here is that vehicles are being parked on part only of the Appeal Site, in connection with a Dwelling in Wolverhampton and not as part of a Planning Proposal.
- G23. Vehicles are parked on every kind of land and very extensively on land with Green Belt Designation. The parking of vehicles on Green Belt land cannot be considered to be inappropriate in principle.
- G24. In this case we say that vehicles are being parked on part of a land area which has been residential by definition since 1961 at the latest. That being so the parking and the gravel are Permitted Development under current Legislation [but the Town and Country Planning Act 1990 cannot be applied]. Planning Permission is not required in relation to the matters listed in the Notice.
- G25. Satellite Images are now included to support our Appeal:

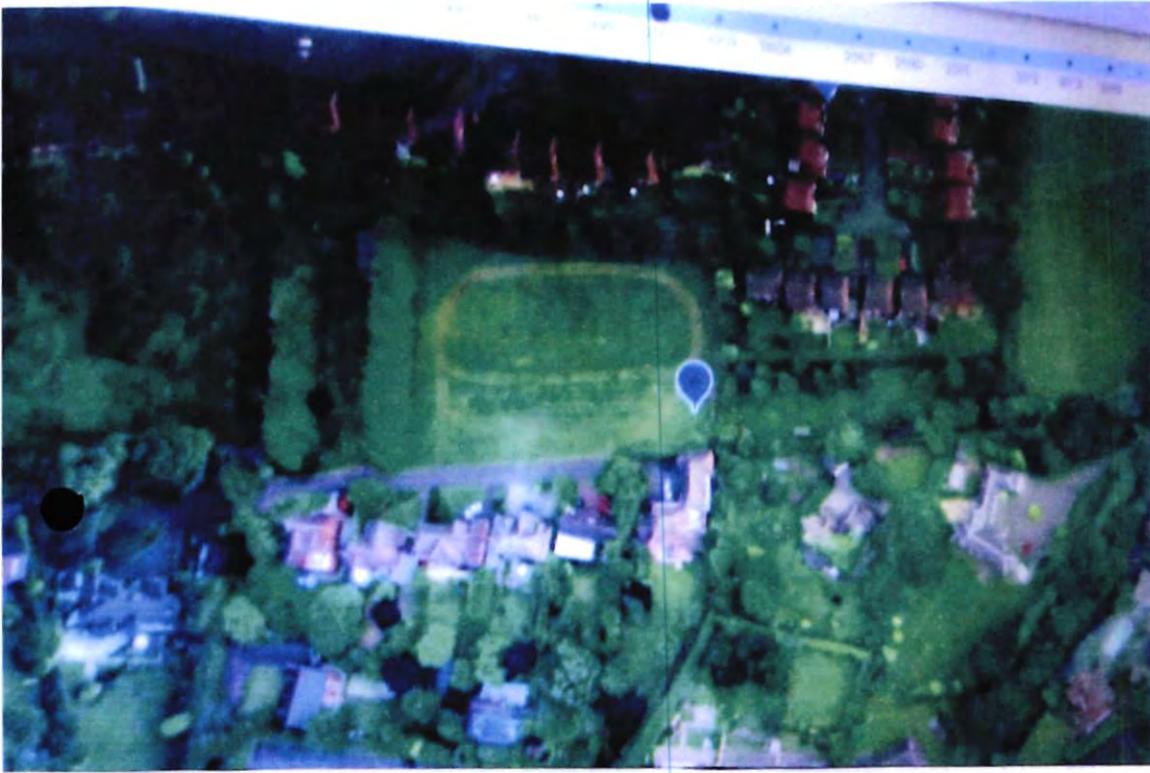


1945 Agricultural Use

1985 Completely blurred



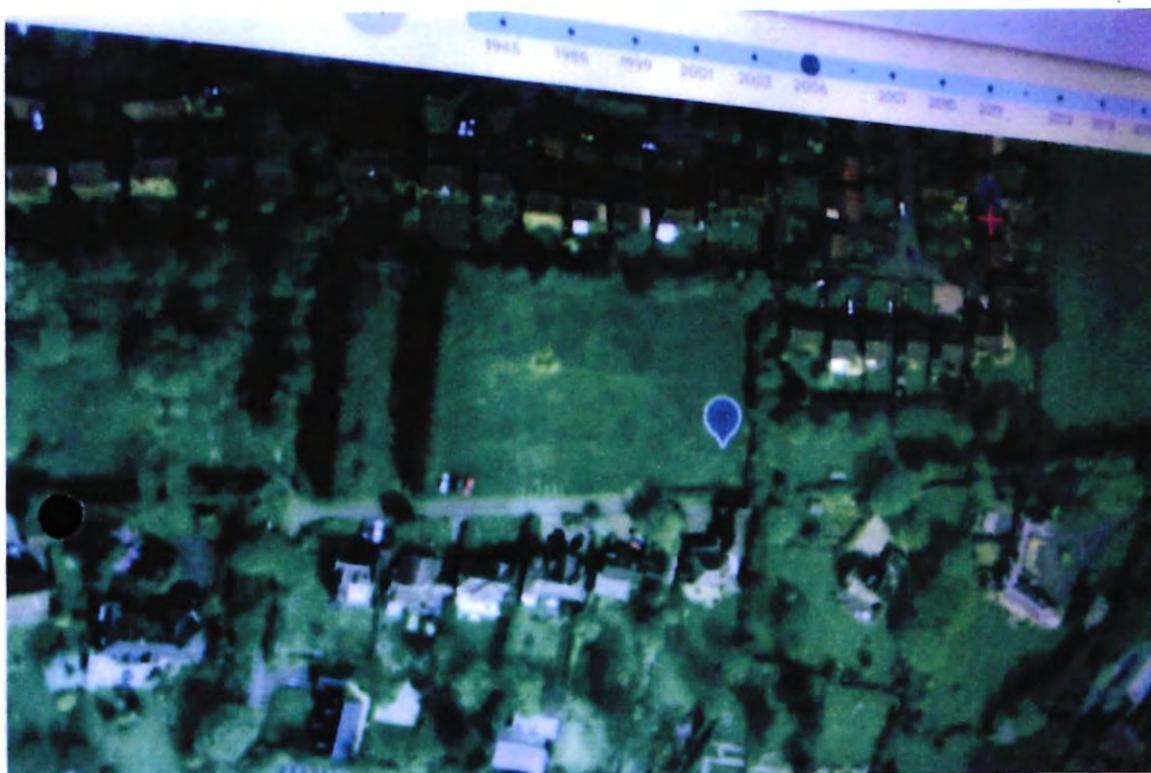
1999 Plot 1 defined by hedges at this date.
Plots 2,3,4 and 5 not defined, kept mown.



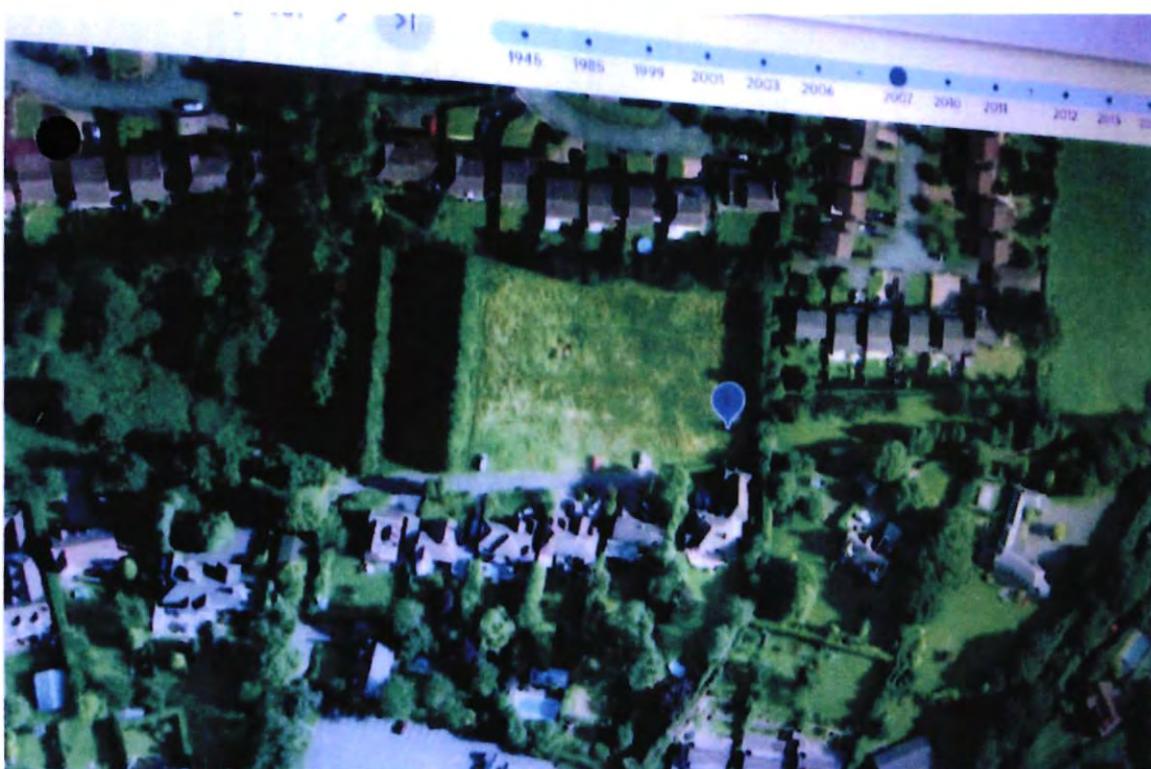
2001 No hedges to plots 1,2,3 and 4 along the edge of the shared drive. Hedge to plot 5. Tracks suggest a mowing machine.



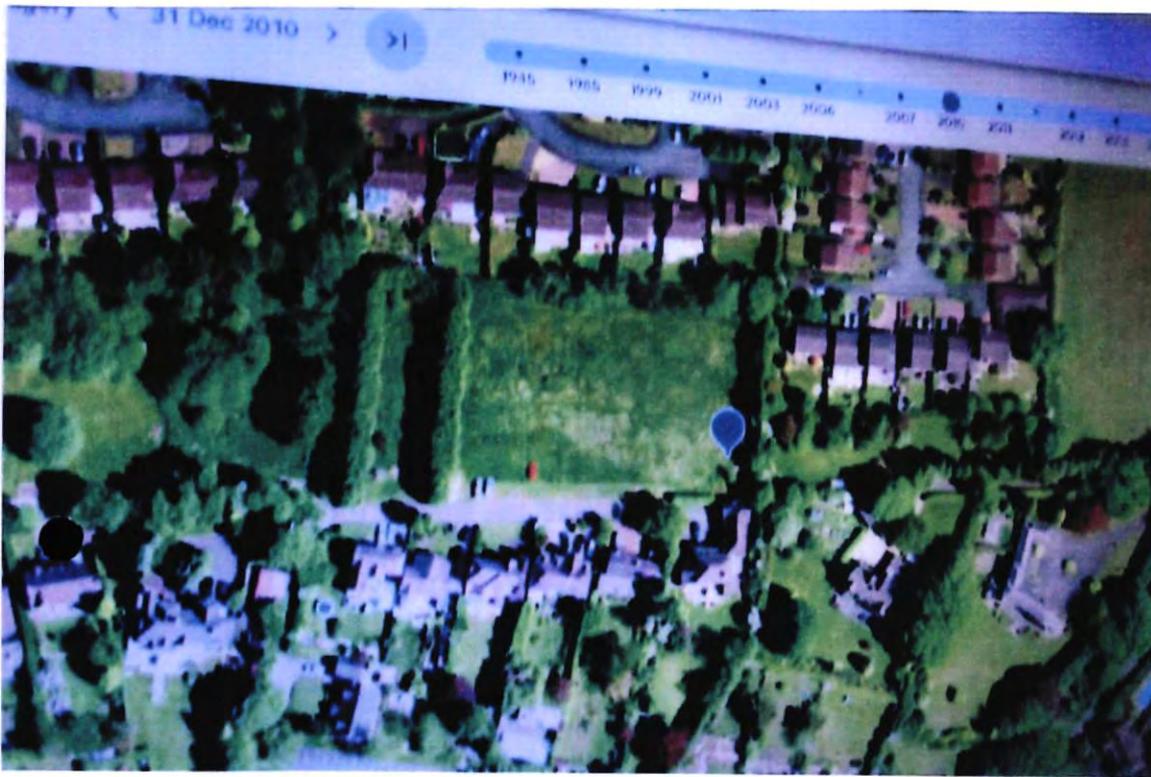
2003 Plots 1,2,3,4 and 5 kept mown.



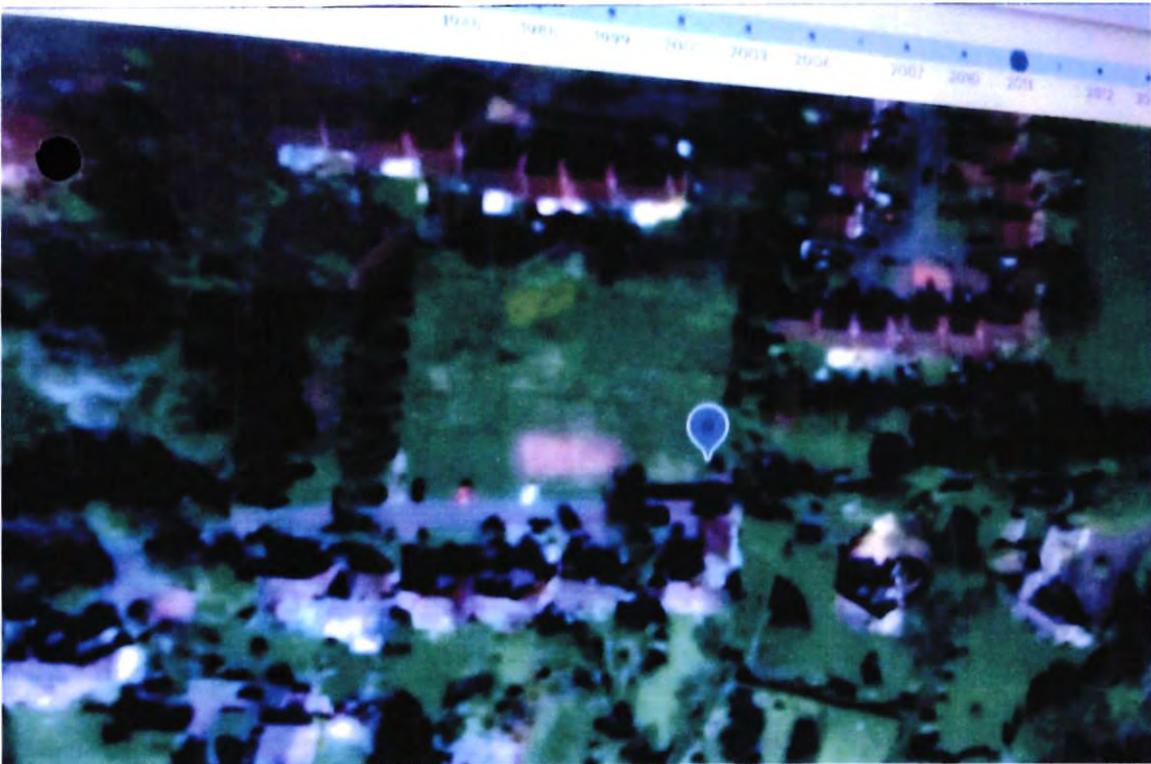
2006 Car Parking seen on the plots for the first time.
1 on plot 1. 3 on plot 2.



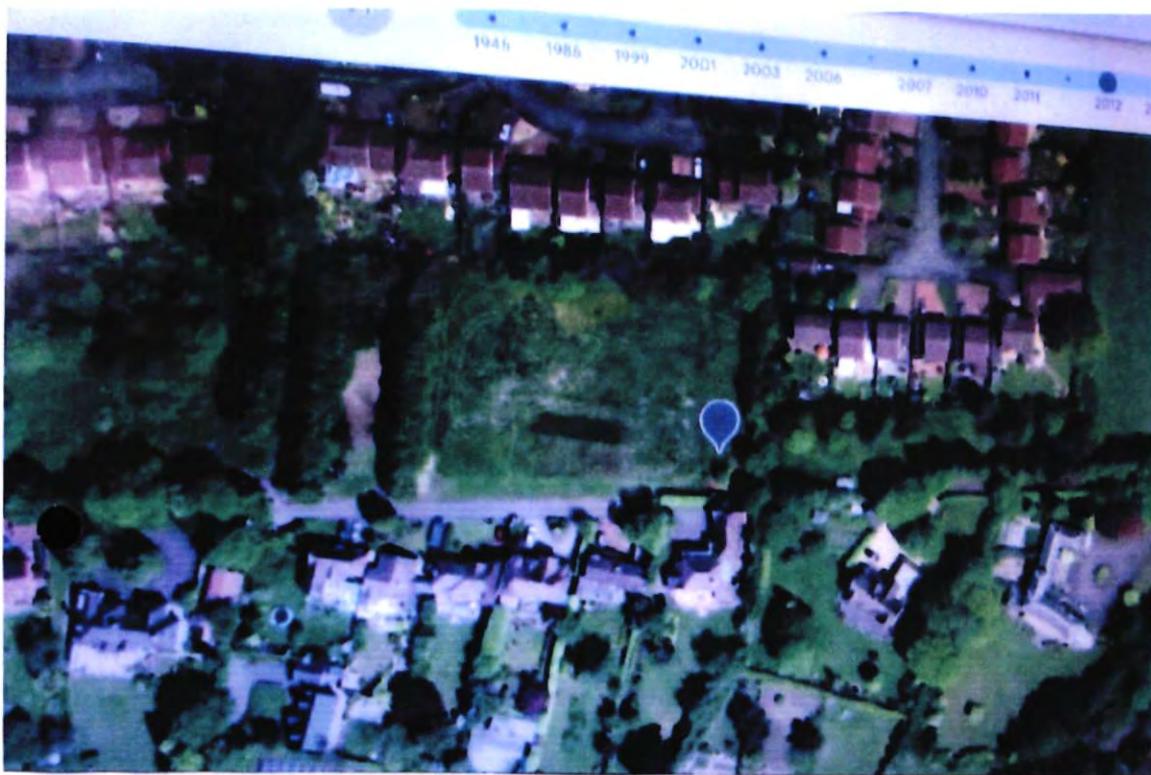
2007 Plots 2,3,4 and 5: roughly mown. Three parked cars.



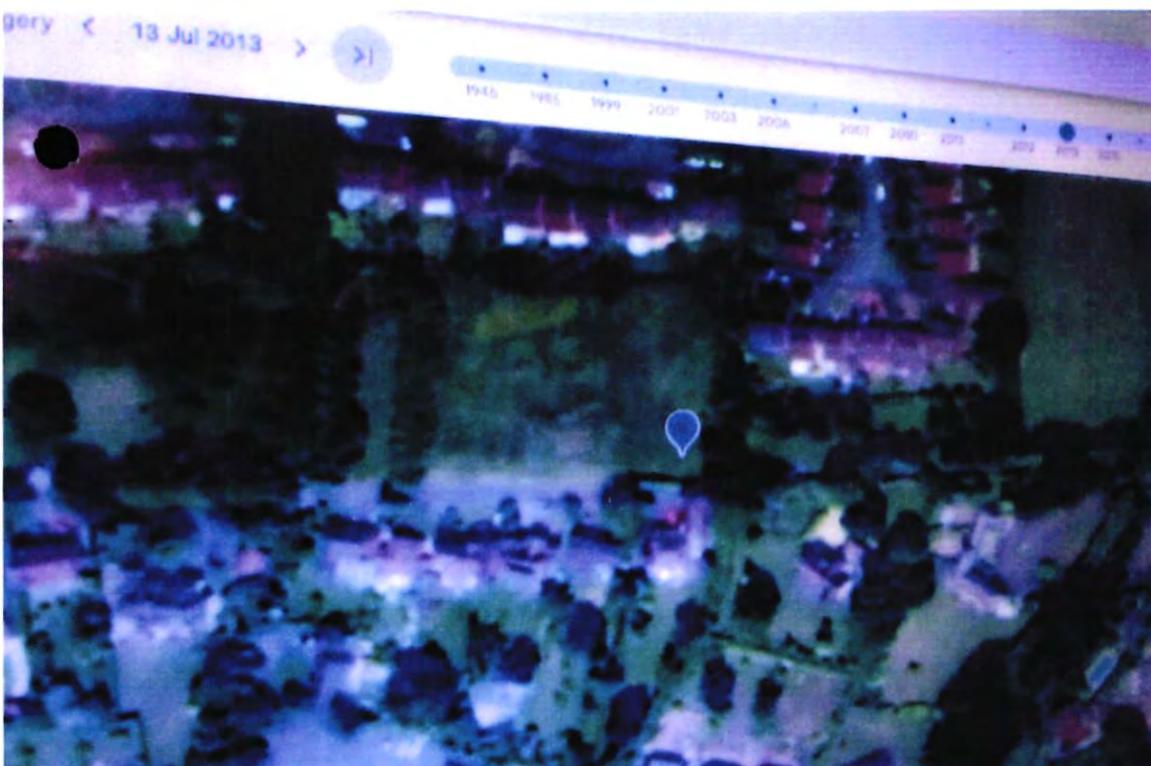
2010 Plots 2,3,4 and 5: roughly mown. Three parked cars.



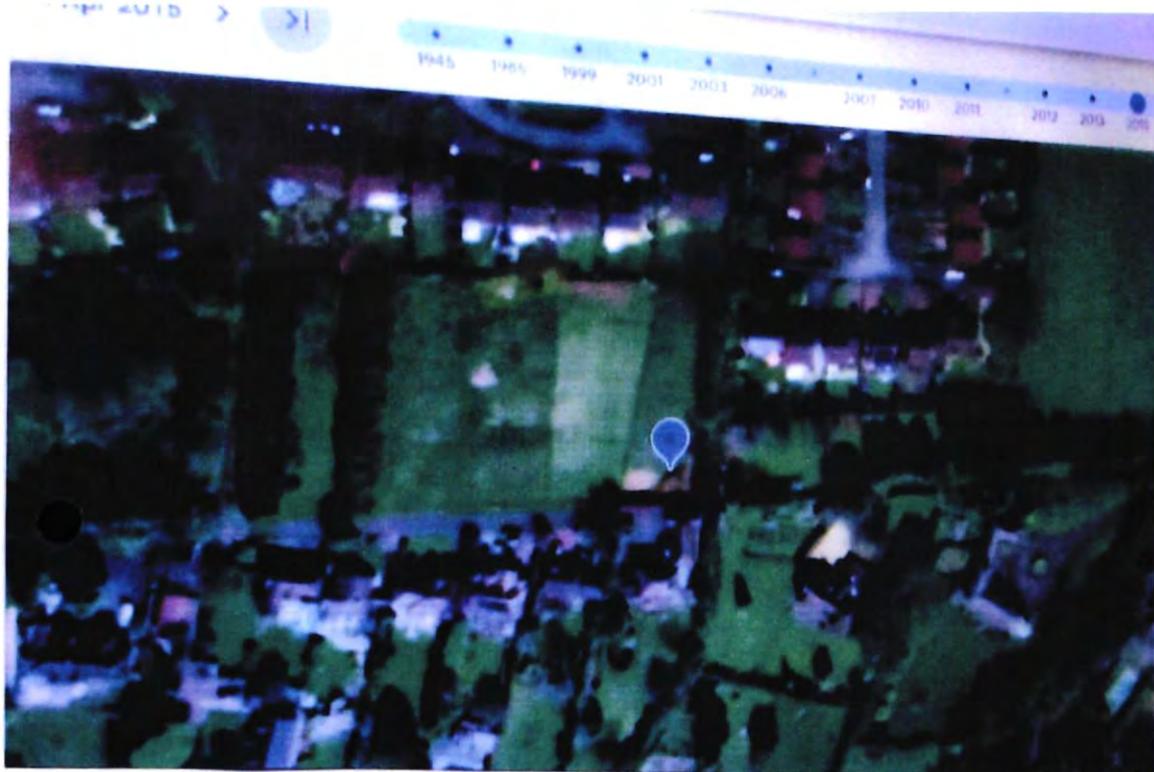
2011 Plots 2,3,4 and 5: roughly mown. Four parked cars.



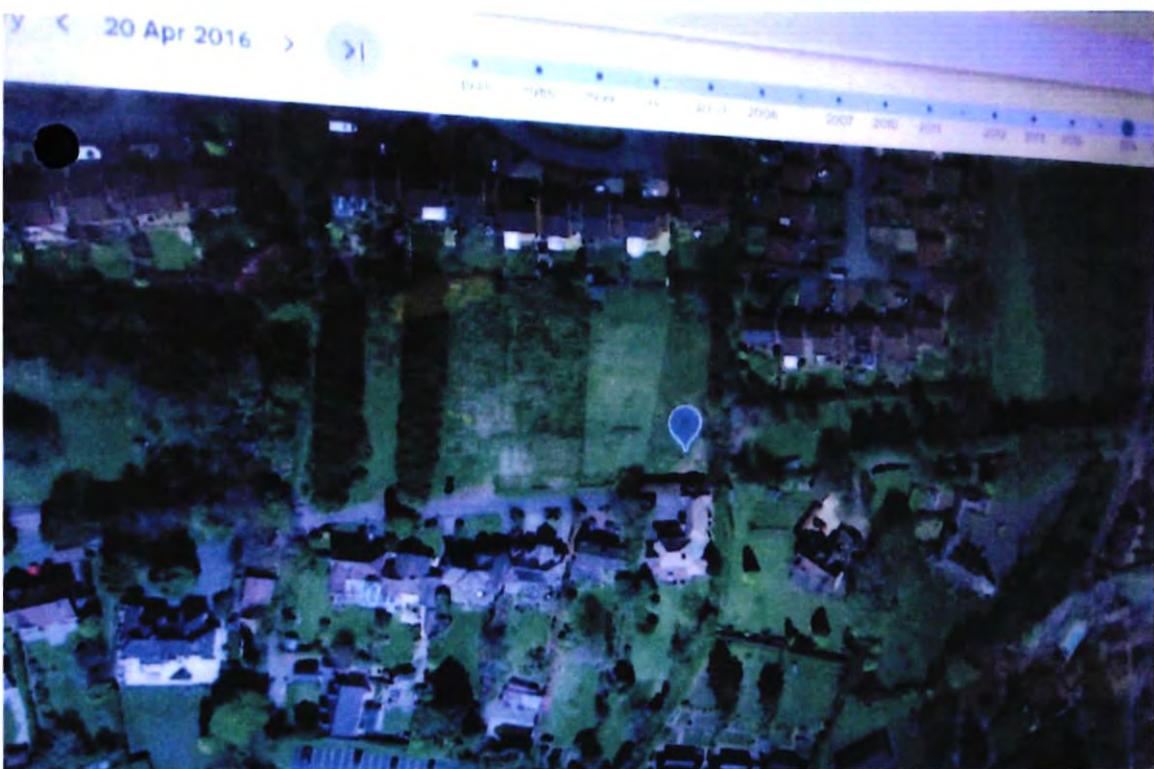
2012 Plot 1 part dug over. Plots 2,3,4 and 5 roughly mown with tracks.



2013 Plots 1,2,3,4 and 5: roughly mown.



2015 Plots 2,3,4 and 5 separately identified for the first time on site. First identified in Title by a Conveyance dated 11 December 1961. Surfacing next to the drive for Plot 5.



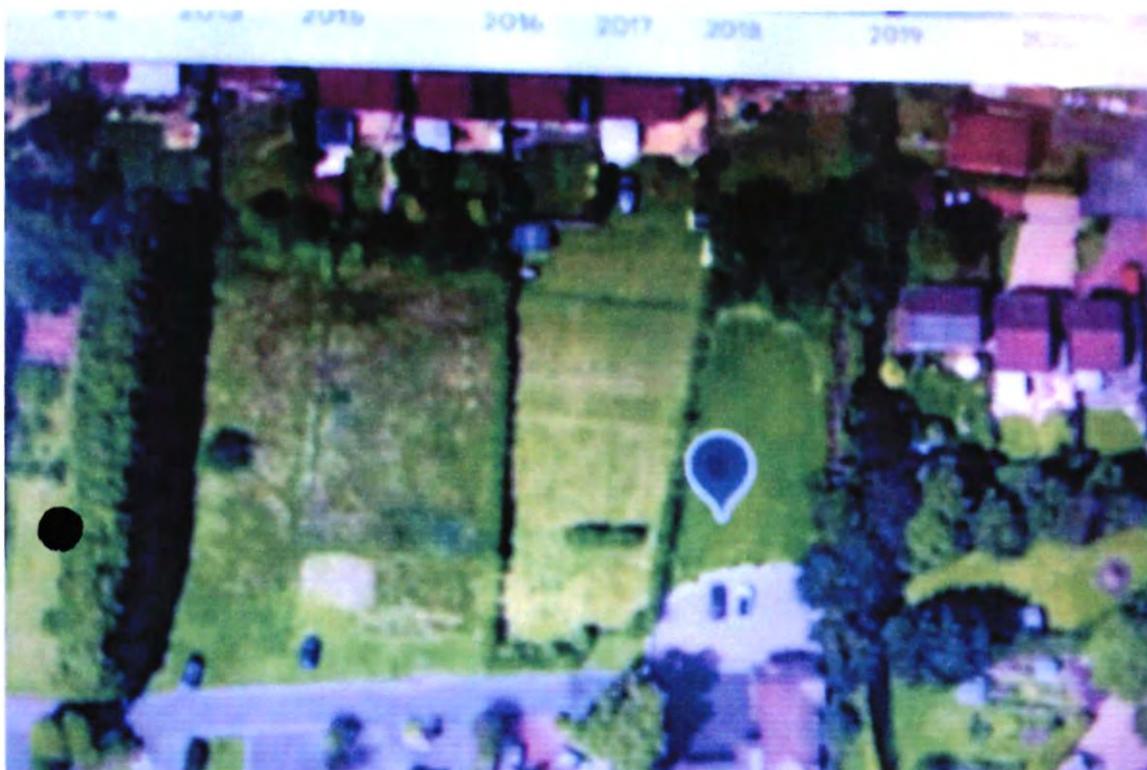
2016 Five plots identified. Car parked on plot 2.



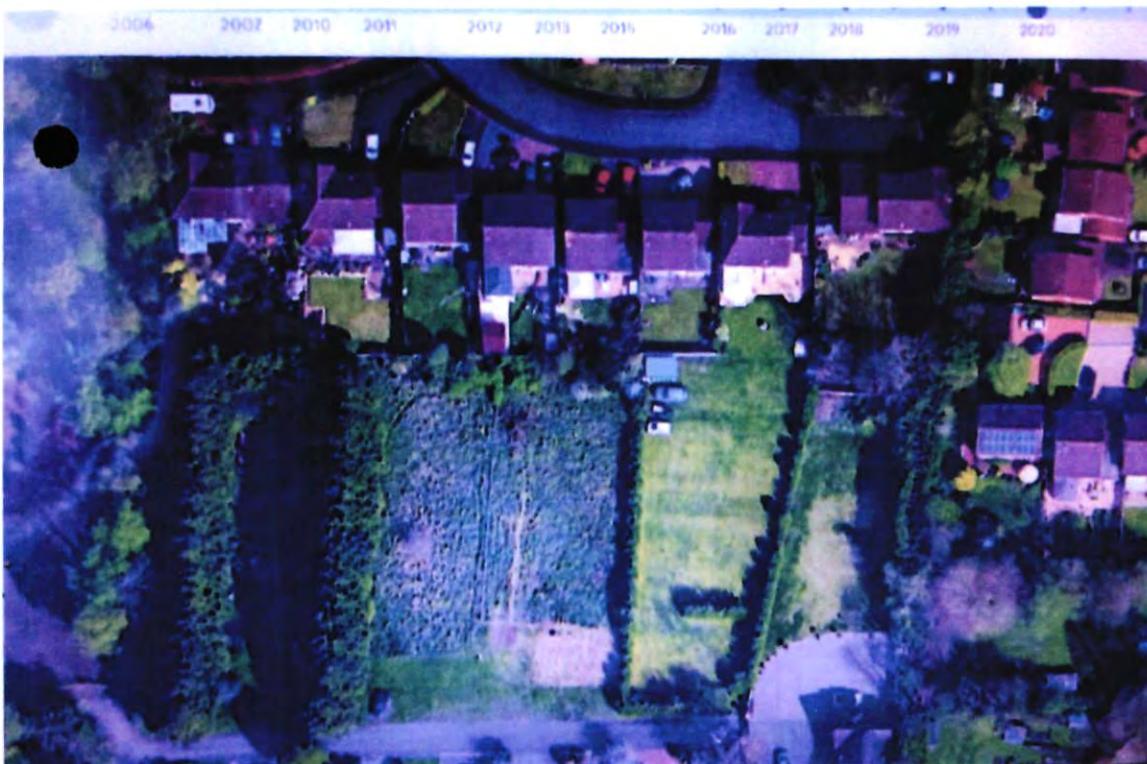
2017 Five plots identified.



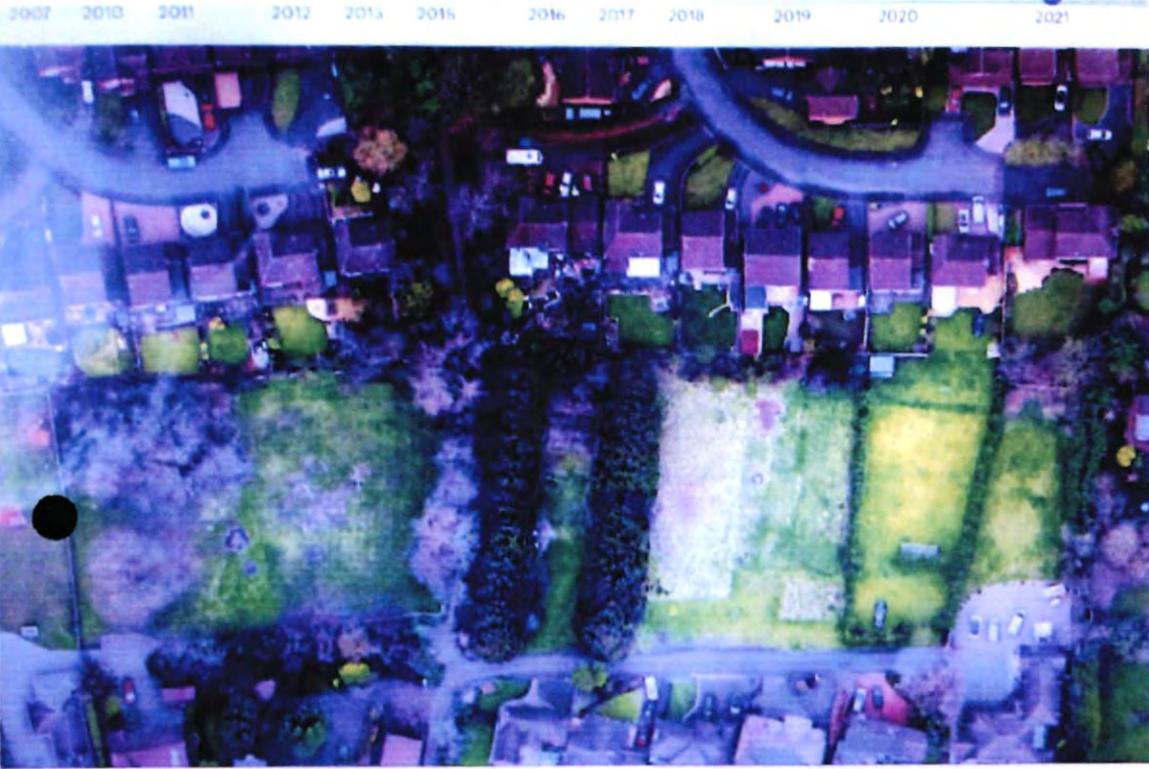
2018 Five plots identified. Plot 4 very well identified by hedging. The indent in the South-East corner respects the Right of Access from the shared drive to plot 5; the Blue land in the 1961 Conveyance.



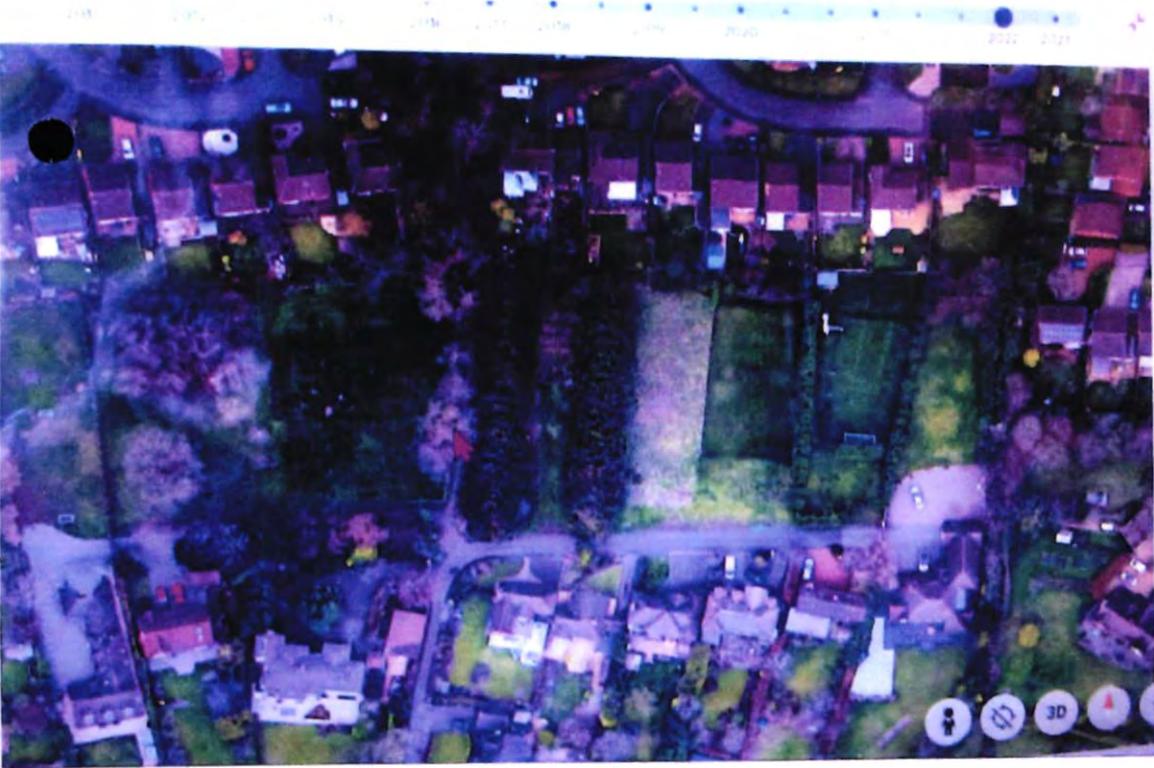
2019 Plots 4 and 5 clearly identified. Gravel and Car parking on Plot 5.



2020 All four plots mown. One car on plot 2.
Two cars and a structure to the rear of plot 4. Gravel and one car on plot 5.



2021 Car and goal posts on plot 4. Cars on plot 5.



2022 Car on plot 5.



2023 Cars parked on plot 1 (one) plot 3 (one) and plot 5

Ground F

- F1. The Notice requires at 4. iv) "Plant an evergreen hedge of at least one metre high similar to that which was in place before for (sic) the unauthorised material change of use took place; or in the alternative erect a minimum three bar wooden fence at least one metre high in the area indicated by a blue line on the Plan so as to physically separate the land from the curtilage of 12, The Highfields".
- F2. The Satellite Image from 1945 shows that there was no hedge on the line indicated on the plan attached with the Enforcement Notice. The Conveyance from 1961 does not require a stock-proof barrier (hedge or fence) along the South boundary of the Appeal Site.
- F3. The later Satellite Images show all the plots open to the shared drive with no boundary structures for many years. Later Images show hedging around Plot 4, with an indent in the South-East corner, for access to Plot 5 from the shared drive; without crossing land within the Title Boundary to 12 The Highfields. This of course would allow vehicular access to Plot 5, if Plot 5 were developed with one dwelling house, as allowed by the Covenant. 12 The Highfields would not need to give up a ransom strip to allow access to the building plot, across Title Number WM 203139. Later Images show a short hedge along the North boundary of WM 203139, from the North-East corner; there is no hedge or fence showing across the full length of the boundary between 12 The Highfields and the Appeal Site.
- F4. The Enforcement Team are not claiming that any hedge which has been removed; was protected by The Hedgerow Regulations 1995.
- F5. The Local Planning Authority are not so keen on a hedge as would prevent them from having a timber post and rail fence as an alternative.
- F6. We know of no Planning Laws and no Planning Procedures which can allow a Local Planning Authority, Enforcement Team; to require an unprotected hedge to be restored or replaced with a timber fence where a fence has never been erected before. The removal of a garden hedge, or any hedge which is not protected by the Hedgerow Regulations 1995; is Permitted Development and Planning Permission not required.
- F7. We say that 4. iv) exceeds the work required to correct the perceived breach and indeed that 4. iv) exceeds the powers of a Local Planning Authority.

Patrick Cluxton MRICS

Chartered Surveyor

*Building Design Expert Witness Specifications
Planning Applications and Appeals
Building Regulations Applications*

Appendices:

Appendix 1

Letter South Staffordshire Council to Jaymini Patel 19/7/2024

Letter South Staffordshire Council to Mr. Patel 19/7/2024

Appendix 2

Email South Staffordshire Council to Mr. Patel 8/10/2024

Appendix 3

Pre-Application Enquiry 31 October 2024

Appendix 4

Email letter South Staffordshire Council to Patrick Cluxton MRICS 23 December 2024

Appendix 5

Email letter Patrick Cluxton MRICS to South Staffordshire Council
6 January 2025

Patrick Cluxton MRICS





South Staffordshire Council

PLANNING ENFORCEMENT

Mr Patel



Case Officer: Mark Bray

Telephone: 01902 696000



Date: 19th July 2024

CASE REFERENCE	19/00230/UNCOU
DESCRIPTION	Without planning permission material change of use of land to land used as domestic residential garden land in connection with the residential dwelling at 12 Highfields, Wightwick, Wolverhampton, WV6 8DW
LOCATION	Land adjacent to 12 Highfields, Wightwick, Wolverhampton, WV6 8DW

Dear Mr Patel,

I write following my site visit to your property today. After inspecting your land, I am satisfied that the above breach in planning control has taken place.

In order to regularise the breach in planning control you now have the following options:

- Cease the use of the land as domestic residential garden land in connection with 12, Highfields, remove the loose stone hardstanding that has been laid, remove all domestic plant pots, delineate the land from the boundary with 12, Highfields with a fence and restore the land back to the condition it was in before the material change of use took place,

Or

- Submit a retrospective planning application for a material change of use of the land.

The use of the land should cease, and the action above taken within six weeks of the date of this correspondence, or a retrospective planning application submitted within this time frame.

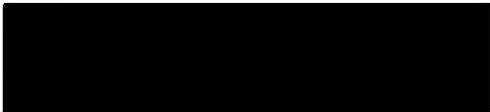
I must advise you that the land constitutes inappropriate development with the Green Belt. Whilst it is within your prerogative to submit a retrospective planning application, such an application is not being invited in this instance and if submitted, is likely to be refused planning permission

Please contact me by e-mail within 14 x days of the date of this correspondence to let the Council know how you wish to proceed.

Please be advised that if no response is received the Council reserves the right to proceed with formal enforcement action and you should take this correspondence as a formal notification of its intention to do so.

As regards the development subject of your complaint in relation to land to the rear of 20, Farleigh Road I can inform you that following your complaint this morning I have opened a new case for investigation into this matter (case reference 24/00249/UNDEV). Following initial enquiries, I can inform you that the shed situated on the land has planning permission, however the children's climbing frame does not and this, together with the goal post will be subject of a request to be remove from the land.

Yours sincerely,



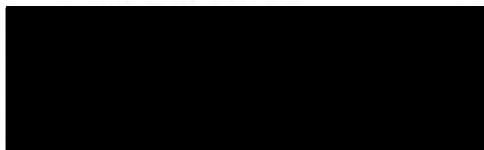
Mark Bray AssocRTPI
Planning Enforcement Consultant
Development Management



South Staffordshire Council

PLANNING ENFORCEMENT

JAYMINI PATEL



Case Officer: Mark Bray

Telephone: 01902 696000



Date: 19th July 2024

CASE REFERENCE	19/00230/UNCOU
DESCRIPTION	Without planning permission material change of use of land to land used for parking in connection with residential dwelling at 12 Highfields, Wightwick, Wolverhampton, WV6 8DW
LOCATION	Land adjacent to 12 Highfields, Wightwick, Wolverhampton, WV6 8DW

Dear Jaymini Patel,

The Council have received a complaint in respect of the land held under your ownership under Land Registry title reference SF469642 for the above detailed breach in planning control.

The land is located within the Green Belt under which there is a presumption against inappropriate development.

In order to regularise the breach in planning control you now have the following options:

- Cease the use of the land for parking in connection with 12, Highfields, remove any hardstanding that has been laid, delineate the land from the boundary with 12, Highfields with a fence and restore the land back to the condition it was in before the material change of use took place.
- Or
- Submit a retrospective planning application for a material change of use of the land.

The use of the land should cease and the action above taken within six weeks of the date of this correspondence or a retrospective planning application submitted within this time frame.

I must advise you that the land constitutes inappropriate development with the Green Belt. Whilst it is within your prerogative to submit a retrospective planning application, such an application is not being invited in this instance and if submitted, is likely to be refused planning permission.

Please contact me by e-mail within x days of the date of this correspondence to let the Council know how you wish to proceed.

Yours Faithfully,



Mark Bray AssocRTPI
Planning Enforcement Consultant
Development Management

Patrick Cluxton

From: Ravi Patel [REDACTED]
Sent: 08 October 2024 14:05
To: Patrick Cluxton
Subject: FW: 19/00230/UNCOU THE HIGHFIELDS

Hello Patrick,

This is the responses received from the council.

Regards to the payment for your invoice will come from the solicitors as I made it to them 3 weeks ago.

Regards,
 Ravi.

From: Mark Bray [REDACTED]
Sent: 04 October 2024 14:28
To: Ravi Patel [REDACTED]
Subject: FW: 19/00230/UNCOU THE HIGHFIELDS

Dear Mr Patel,

I have tried calling you in response to your request for a callback but received no response. I understand you would like to know what to do to remedy the breach. You will need to remove the hardstanding and all pot plants from the land and restore it by laying down topsoil then allowing it to rewild by using a mix of grass and wildflower seed. In addition, you should demarcate the land from the residential curtilage of your property by installing a fence of at least one metre high (a basic three bar fence will suffice), however you may install a gate to access the land if you wish. Finally, you should let all the land re-wild and cease cutting it to the standard of that associated with a domestic lawn.

I would be grateful if you could confirm that you intend to restore the land and provide me with a timeframe in which you are able to get the work carried out.

Regards,

Mark Bray AssocRTPI

Planning Enforcement Consultant
Planning Enforcement
 South Staffordshire Council

Tel: 01902 696000
www.sstaffs.gov.uk

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Patrick Cluxton MRICS

Chartered Surveyor

Building Design Expert Witness Specifications
Planning Applications and Appeals
Building Regulations Applications

LIP Pro 1

South Staffordshire Council
Council Offices
Wolverhampton Road
Codsall
Wolverhampton
WV8 1PX

31 October 2024

For Mark Bray Assoc RTP1
Planning Enforcement Consultant
Development Management

Dear Mr Bray

Land in Title Number SF 469642 19/00230/UNCOU

1. Jaymini has passed to me your letter dated 19 July 2024, I also have your letter to Mr Patel, at same date.
2. Mr and Mrs Patel live together at 12 The Highfields Wightwick Wolverhampton WV6 8DW
3. The Land is in South Staffordshire, 12 The Highfields is a residential property, and in Wolverhampton, The land has Green Belt designation in Planning and is located outside the Perton Development Boundary. The residential property does not lie within the Green Belt.
4. Jaymini Patel is the Sole Registered Proprietor of the Land, in Title Number SF 469642. Ravindra Patel is the Sole Registered Proprietor of 12 The Highfields in Title Number WM 203139. Given that 12 The Highfields is beyond the Green Belt Boundary, Enforcement Action is not available against Mr Patel and 12 The Highfields

Patrick Cluxton MRICS



(by Wolverhampton City Council). 12 The Highfields has a Planning Record with Wolverhampton City Council. Some of the submitted, and approved plans show a red line boundary which includes the Land in South Staffordshire. This is incorrect as to jurisdiction and also incorrect as to land ownership (Registered Titles). See attached .

In my view this does not invalidate the Permissions granted to 12 The Highfields under the National and Local Planning Policies which applied at the dates of the Permissions. The left side garage wall is perilously close to the Green Belt Boundary and perilously close to coming under the Jurisdiction of South Staffordshire Council.

5. All of the land belonging to Jaymini Patel is in South Staffordshire: However any Planning Procedures relating to the land might require Consultation with Wolverhampton City Council as the only access to the Land is across land in Wolverhampton. The Southern boundary of the land is also the boundary between the jurisdiction of South Staffordshire Council and Wolverhampton City Council and shows the Green Belt Boundary.

6. Mr Patel, representing Mrs Patel, the Sole Registered Proprietor; has forwarded to me your email dated 4 October 2024. We can find no planning powers which could enforce Mrs Patel to erect the Fence referred to (with gate), nor can we find any planning powers to enforce Mrs Patel to re-seed the grass area as described. I understand the Southern boundary between the land and 12 The Highfields, between the entrance gate pillar and the garage; was formally shown by an evergreen hedge, Cypressus sp. The hedge was not protected by the Hedgerows Regulations 1997 and Mr and Mrs Patel were entitled to remove the boundary hedge. We also believe that Mrs Patel is entitled to have the grassed area mown, outside of planning control.

7. The Council's main objection to the current situation relates to a large area of gravel which has been spread across the Southern part of the Land and is in use as off-drive parking, only for 12 The Highfields and referred to as "hardstanding" in the letter. The Council see this as a Material Change of Use in planning. However the previous land use is not given and it may now be impossible to establish the previous land use. It is likely that the whole area was once given over to Agricultural Land; for arable farming or livestock farming or a mix of the two: Development for housing was then allowed in Wolverhampton and Perton and stopped in this area by the boundary with South Staffordshire and the Green Belt boundary. It is certain that this small field cannot be returned to Agriculture, nor any other countryside use and that might not be desirable in any circumstances.
 The land extends to approximately 1,170 square metres. A very significant area of fragmented farmland could "go over to horses" as the farmers like to say. The land might be suitable for pony paddocks but that might not be the best use. Despite the efforts of the British Horse Society and others, including this Surveyor: There is no Equestrian land Use Class in Planning. This is to safeguard agricultural land from being permanently equestrian. Given the value of former agricultural land which has 'gone over to horses' by comparison with farmland , particularly when a stable yard has been built, it is very unlikely that land currently in equestrian use will every go back to farming.

Whilst equestrian land is a good "new use" of fragmented farmland in principle and for many sites it may not be the best use for every site. We consider that pony paddocks with or without a field shelter and/or stableblock; would not be suitable for this site.

8. The council's main objection to the current use relates to the parking of private cars on Green Belt land; there is no business use. However private motor vehicles are commonly parked on land with Green Belt designation; for the full range of land uses, including sites in residential use; smallholdings, farmholdings, public houses, garages, leisure facilities, hotels, nature reserves etc etc. Clearly parking on Green Belt land is not banned in any way and must be considered as "appropriate" in many ways.
9. The main feature of the Green Belt is its openness and parking on Green Belt land, in the absence of garages, does not, in principle, reduce openness. Perhaps this is why off-road parking in association with development in the Green Belt is easily allowed, together with the building(s).
This Surveyor has a number of Permissions on file where off-road parking has been allowed with built development in the Green Belt. The status of vehicles in planning has been tested. In one case the Appellant wanted to include the ground covered by vehicles and the volume of vehicles in a before and after assessment of plan size and volume for a re-development proposal. The inspector adjudged that the vehicles (commercial) as moveable objects; could not be included in the plan/volume calculation of the Existing. This reflects the fact that vehicles are different to buildings in life and in Planning. Their impact on the Green Belt cannot be permanent.
10. The land currently has no meaningful use for the main area, beyond the gravel. We accept that the gravel; is not an acceptable material to be laid over grass. The plant pots might be considered as de minimis in planning.
11. Given that parking vehicles on Green Belt land is so widespread; a range of building products have been made which have a green appearance whilst being able to support the weight of vehicles. These materials are porous and exempt from planning control in most circumstances, as there is no surface water run-off; which can contribute to flooding of rivers. Grass and plants grow through these materials giving a soft green appearance and the materials have some value to wildlife.
12. Our first proposal to the Council is that we will replace the area of gravel currently seen on site; with a much smaller area of a material specifically designed for use on Green Belt land, for parking private vehicles. We propose an area at 58 square metres, being four parking spaces. The area would be demarked by a low timber trip rail to immediately prevent vehicles from going onto land beyond the parking area. There would need to be walk-through access to the land beyond.

L J P Pre 4

The area would be further enclosed by a Beech hedge (*fagus sylvatica*) which would be maintained at 1.50m high to screen the parking area from the land beyond (Hornbeam is similar and faster growing but Beech is preferred).

The parking area would be surfaced with "Grassblock" or other approved.

Grass Concrete Limited

Duncan House

142 Thornes Lane

Thornes

Wakefield

West Yorkshire

WF2 7RE

13. Save for the proposed orchard and access to it; the remainder of the land would be available for re-wilding.
14. The Land is currently surrounded by hedgerows, predominantly non-native evergreen plants, with some native trees along the North boundary. The present condition of the Land is now recorded by a photograph.



The Land in Title Number SF 469642
Condition on 3 September 2024

15. Ideally the side hedges should be reduced in height to create a variety of heights; that would require the co-operation of the neighbouring landowners. Hedge reduction would allow more daylight and sunlight to fall on the central area whilst still providing shelter
16. Our proposals for re-wilding are show in principle on attached and enclosed Drawing Number L J P Prelim 01 and our preliminary planting schedule now follows:
- Hedge
 Beech (*Fagus sylvatica*) 23m
- Understorey
 Witch Hazel (*Hamamelis virginiana*)
 Flowering Dogwood (*Cornus florida*)
 Holly (*Ilex aquifolium*)
 Rowan (*Sorbus aucuparia*)
 Field Maple (*Acer campestre*) 187 sq.m. Mixed
- Scrub
 Blackthorn (*Prunus spinosa*)
 Hawthorne (*Crataegus monogyna*)
 Hazel (*Corylus avellana*)
 Bramble (*Rubus fruticosus*)
 Ivy (*Hedera helix*) 60 sq.m. Mixed
- Rough Grass
 Left to grow 9 sq.m.
- Wild Flower Meadow
 Mow and re-seed with
 Meadowmania Native British
 General Purpose Wildflower Seed Mix
 Minimum 23 species
 or other approved. Mowing
 Pattern, one full mow only, after seeding 640 sq.m.
- Private Fruit Orchard
 Apple (*Malus x domestica*)
 Pear (*Prunus communis*)
 Plum, Cherry (*Prunus cerasifera*) 30-40 Trees
 Hazel (*Corylus avellana*)
- [Planted to one of the recommended Orchard patterns] 192 sq.m.]

Parking

Grassblock or other approved	58 sq.m.
------------------------------	----------

Orchard Access

Grassblock or other approved	24 sq.m.
------------------------------	----------

1,170 square metres

17. Our proposals would leave the land entirely open in principle and green all over. 82 square metres (7%) would include a hard material, softened by inplanting.
18. The proposed parking space(s) would be left open for visitors who currently have to park on the drive inside the security gates, to avoid blocking the vehicular access to Nr. 10 (and possibly Nr.8). There is currently insufficient space on the existing frontage for visitors to turn and leave in a forward gear, when the occupiers and family members are parked on the frontage, and the drive inside the security gates.
19. All Planning Applications must show that the proposal would increase Biodiversity by at least 10%. For a formal planning application we would not submit an Ecological Assessment of the existing Flora and Fauna, because the proposal would lead to such a vast and obvious increase to Biodiversity.
20. For a formal planning application we would not propose that there should be any amendment(s) to the Green Belt boundary.
21. Parking on Green Belt land is widespread and could be considered as Appropriate in principle and for this site.
If not, proposals to plant an orchard and to re-wild 896 square metres of Green Belt land could provide Very Special Circumstances to allow the creation of a suitable surfaced parking area at 58 square metres (the orchard access might be considered to be Appropriate in any event).
22. Planting up Green Belt land as proposed must be a Desirable Objective in Planning but cannot be enforced on Landowners by any Planning laws (Countryside Stewardship Schemes and Grants for orchard planting are available).
As a member of The Woodland Trust (and the RSPB), I can say that the Trust will often give away trees for planting, free of charge.
23. The proposed planting seems to outweigh any minimal harm which the proposed parking space(s) might cause to the Green Belt, particularly as open parking does not require the erection of any building(s) nor any structure(s).
24. The proposed parking space(s) would be inaccessible to anyone other than the owner/occupier(s) of 12 The Highfields and their family and visitors. The proposed use could be controlled by Planning Condition.

25. The proposed planting could be secured by Planning Condition.

We look forward to receiving an Officer's Informal Opinion on our proposals and thank you for your assistance

Yours Faithfully 

Patrick Cluxton MRICS

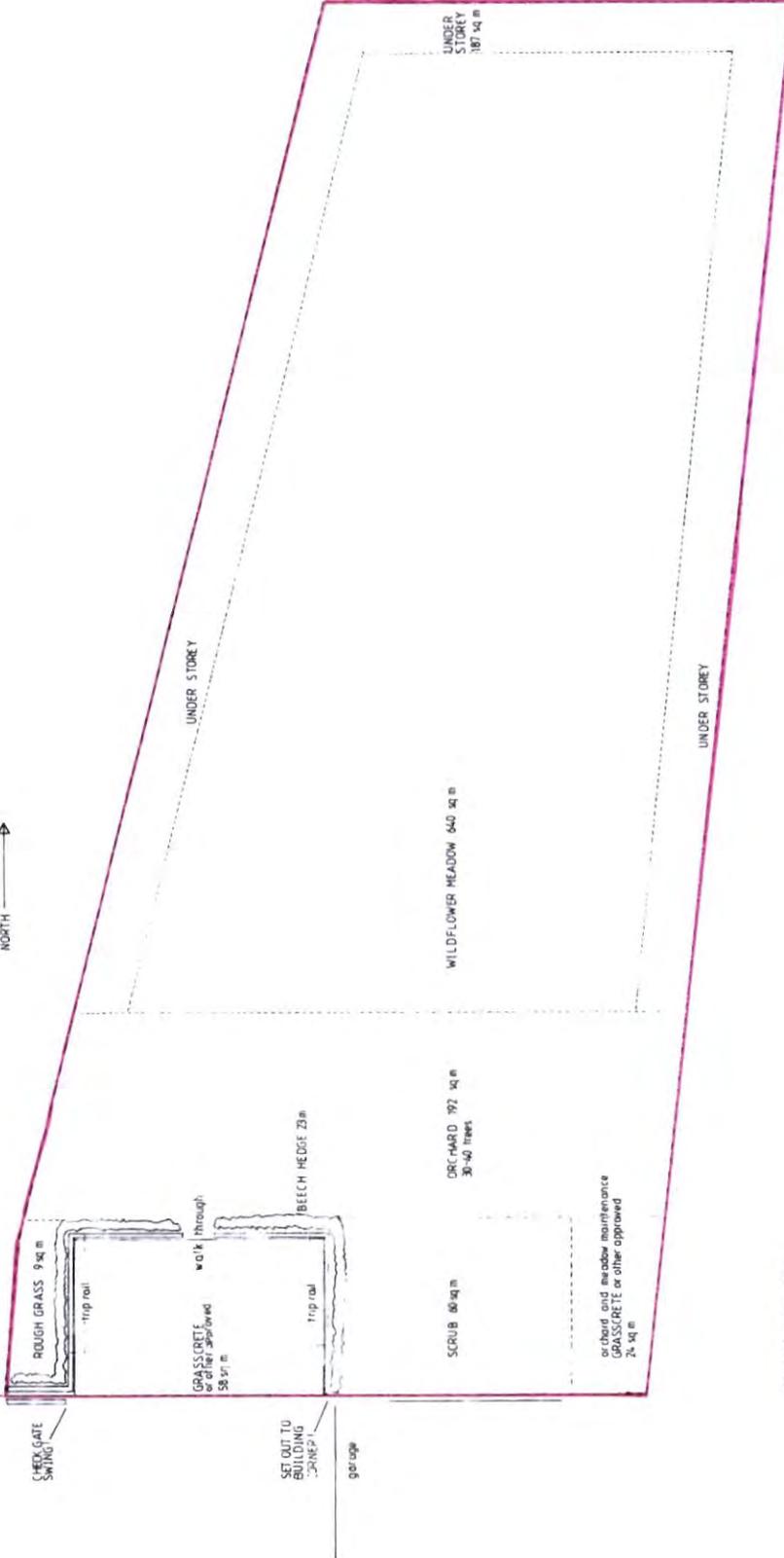
c.c. Jaymini Patel



Drive to 12
The Highways
(shared with
Nos 24, 68 and
80)

WOLVERHAMPTON SOUTH STAFFORDSHIRE

NORTH ↑



PROPOSED SITE LAYOUT

DRAWING STATUS	
<input type="checkbox"/>	Preliminary /
<input type="checkbox"/>	For illustrative purposes only
<input type="checkbox"/>	For building regulations application
<input type="checkbox"/>	Building notice
<input type="checkbox"/>	Full plans
<input type="checkbox"/>	For planning application
This is not a working drawing	
REVISIONS	
Issue	Date
	Amendment

All dimensions approximate and must be checked on site

PATRICK CLUXTON	
130-134, THE HIGHWAYS, WOLVERHAMPTON, STAFFORDSHIRE, WV10 0JG TEL: 01902 831111 FAX: 01902 831112 EMAIL: PATRICK@PATRICKCLUXTON.CO.UK	
DATE	31 October 2024
SCALE	1:100
PROJECT	UP (Part 1) (P)



23rd December 2024
24/00123/PREAPP

Please ask for: Laura Moon
Switchboard: 01902 696000

Jaymini Patel

Reference: 24/00123/PREAPP

Proposal: Off drive parking for 4 cars associated with 12 The Highfields Wolverhampton Private Fruit Orchard Re-wilding.

Site: Rear of 12 The Highfields, Wolverhampton

Dear Sir/Madam

Thank you for your pre-application enquiry received on 31st October 2024, regarding the change of use of agricultural land for the purposes described above on land to the north of No.12 Highfields, Wolverhampton, I am writing to provide you with some initial views on the principles.

Principle of development

Section 38 (6) of the Planning and Compulsory Purchase Act (2004) sets out that the determination of applications must be made, in accordance with the Development Plan, unless material considerations indicate otherwise. The Development Plan for South Staffordshire District comprises the Core Strategy (2012-2028) and the Site Allocations Document (2012-2028).

The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

Green Belt serves five purposes:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Paragraph 154(h) of the NPPF states that certain forms of development in the Green Belt are not inappropriate provided they preserve its openness and do not conflict with the purposes of including

land within it, and include the material change of use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds).

Policy GB1 of the Core Strategy is worded differently and accepts a change of use would be permitted where the carrying out of engineering or other operations, or the making a material change of use of land, where the works or use proposed would have no material effect on the openness of the Green Belt, or the fulfilment of its purposes. Whilst worded differently, it is considered the aims of the two are the same.

The application relates to a parcel of land that acts as a buffer between the settlements of Perton and Wolverhampton, and is defined as Green Belt in the Councils Local Plan Policies Maps ([perton_sad.pdf](#)).

The proposal to encroach into this green belt buffer would clearly conflict with the green belt purpose (part b), that is to prevent neighbouring towns from merging into one another. The buffer between the settlements has already been eroded to a certain extent with the agricultural land being divided and sold off, which has resulted in the planting of trees/hedging along the boundaries to define different ownerships. The proposal to create a drive for the associated property would not be acceptable and would represent inappropriate development in the Green Belt. and there should be a clear boundary distinction between the residential property and the agricultural land to maintain the green belt purpose. Whilst it is acknowledged that the incursion would be small due to the size of the car park and the proposed use of grasscrete, this does not override the harm to the green belt purpose and the proposals inappropriateness, which is heightened by the restricted size of the settlement buffer and the harm that has already taken place with the subdivision of the agricultural land. The proposed use of the land for a wild meadow and orchard would not require planning permission.

Paragraph 153 of the NPPF provides that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Very Special Circumstances

It is not considered that the points raised in the covering letter (i.e. land ownership, size of the agricultural land and the proposed surface use of grasscrete) constitute to the very special circumstances required to justify inappropriate development in the Green Belt.

Impact on Openness

There has been much dispute in recent years in case law in defining openness. A defining case in R (Timmins & Anr.) v Gedling BC & Anr. helps to define whether the visual impact of a development

could be taken in account in considering 'openness'. It was held that 'openness' is characterised by the lack of buildings but not by buildings that are un-obtrusive or screened in some way. It was also held that 'openness' and 'visual impact are different concepts', although they could 'relate to each other'.

The NPPG has been updated (July 2019) with guidance on factors taken into account when considering the potential impact of development on the openness of the Green Belt. These include, but are not limited to:

- openness is capable of having both spatial and visual aspects - in other words, the visual impact of the proposal may be relevant, as could its volume;
- the duration of the development, and its remediability - taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and
- the degree of activity likely to be generated, such as traffic generation.

The proposed car park would allow space for the parking of four cars in connection with the residential property. It is intended to enclose the area with a trip rail fence and hedging, which will reduce the proposals visual impact. Considering the intended size of the car park and its spatial impact along with the transitional nature of the use of the land for parking, it is considered that limited – moderate harm would be caused on the openness of the Green Belt.

Conclusion

The application relates to a parcel of land that is a green belt buffer between the settlements of Perton and Wolverhampton and provides a clear green belt purpose of preventing neighbouring towns merging into one another. The green belt buffer is already restricted in size and therefore any further incursion would not be acceptable. The proposal to create a drive for the associated property would result in inappropriate development in the Green Belt, to which substantial weight is given in the planning balance. The proposal is therefore not likely to be looked upon favourably by a planning officer.

If you wish to proceed with a planning application the following information would need to be submitted

- Application form
- Application Fee (£578.00.)
- Location plan to a scale of 1:1250 or 1:2500 with the application site edged in red
- Existing and proposed block plan to a scale of 1:200 or 1:500
- Planning/Supporting Statement detailing Very Special Circumstances.
- BNG Metric and Baseline Habitat Plan

Notes



This letter is solely for advice. It is not a formal decision under the Town & Country Planning Act 1990 or any other law. We reserve the right to depart from the advice given either in this letter or elsewhere if further, relevant information becomes available, or if we have failed to address a material planning consideration that may arise during consultation or from a site visit.

Should an application be referred to Committee for determination, Councillors are not bound by the officer recommendation.

Yours sincerely



Laura Moon
Senior Planning Officer
Development Management Team

Patrick Cluxton MRICS

Chartered Surveyor

*Building Design Expert Witness Specifications
Planning Applications and Appeals
Building Regulations Applications*

South Staffordshire Council
Council Offices
Wolverhampton Road
Codsall
Wolverhampton
WV8 1PX

6 January 2025

For Mark Bray Assoc RTP1 and
Laura Moon Senior Planning Officer

Dear Mr Bray and Ms Moon

Land in Title Number SF 469642 24/00123/PREAPP 1900230/UNCOU

1. Thank you for your letter dated 23 December 2024. We consider that the change of use away from Agriculture, if the land has ever been Agriculture; occurred so long ago as to not now be relevant. We would describe the land as "Amenity Land" belonging to Jaymini Patel.
2. Policy GB1 of the Core Strategy allows development which has no material effect on the openness of the Green Belt and no material effect on the fulfilment of the five purpose of including land in the Green Belt (c-f).
3. The land designated as Green Belt in this immediate area is extremely thin and the expansion of Perton in the past has all but broken the Wildlife Corridor.
4. All the land to the North of the shared drive and North of the boundary with Wolverhampton, is entirely vulnerable to built environment. Policy GB2 requires a review of Green Belt boundaries and the release of land for future development to include housing; for the period 2028-2030. Land released from Green Belt designation must be safeguarded for development.

Patrick Cluxton MRICS



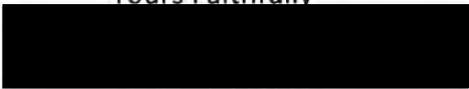
5. In our view the proposed planting would reinstate the Wildlife Corridor as far as that is possible without the co-operation of neighbouring landowners. In our view, in the absence of any built development, our proposals would not fail any of the five restrictions on development in the Green Belt, including "(part b)" The area of land proposed for parking (with suitable surfacing), is so small as to offer no potential for Wolverhampton to merge with Perton.
6. Any previous Agricultural land use has been permanently lost to amenity spaces for all the owner/occupiers of the houses on the South side of the shared drive.
7. We do not propose to "create a drive for the associated property"? Access to the parking space(s) would be from an existing drive which is in Wolverhampton and is in the sole use of 12 The Highfields, behind the security gates at the top of the shared drive. [The amenity land is to the side of 12 The Highfields, not the rear].
8. All vehicles can be parked on Green Belt Land without Planning Consent to include cars, caravans, lorries, horseboxes, trailers etc etc etc. Your objection on the grounds that the proposed off-drive parking would be associated with a house in Wolverhampton, which is not in the Green Belt, is extremely tenuous.
9. Spreading gravel on Green Belt land, of itself, is also beyond Planning Control as is any form of loose surfacing, The spreading of Gravel cannot be defined as a Mining or Engineering Operation nor as any form of "operation"; as a matter of fact and degree. Nevertheless we propose to reduce the existing area of gravel dramatically; to make way for extensive planting and a small area of "Grasscrete" .
10. The Planning system requires balance and very commonly this includes a trade off between the impacts of development and the benefits of that development. Landowners must be encouraged when the benefits so obviously outweigh the impacts, if any; as in this case.
11. We don't see any potential harm to the Green Belt, nor any actual harm: we only see enhancement and protection as the outcome of our proposals if taken to fruition.
12. If the land remains as it is, it will continue as a grass monoculture, with gravel spread over a large proportion of the area; beyond Planning Control. Adding the parking of cars to that arrangement, with no limitations (no trip rails) and without enhancement to the Green Belt raises some interesting Legal Points to include the definition of development and the definition of a material change of land use.
13. Your approach to inappropriateness is also open to challenge, particularly as you are required to consider all the proposal within the Red Line Boundary, in principle and in relation to the trade off. The benefits to the whole site clearly outweigh the parking of

LJP E3

four cars on a small proportion of the site area. Our view is that the parking of vehicles on Green Belt Land is not inappropriate in Planning nor in Law.

14. We consider that the parking of vehicles on Green Belt Land does not affect openness and there would be no "visual impact" at all: The cars would not be seen by anybody except the owner/occupiers of 12 The Highfields and their visitors.
15. The level of Traffic Generation would not increase at all; the proposals would make it easier for drivers to manoeuvre in front of the house on the existing drive, behind the security gates belonging to 12 The Highfields.
16. The use of the small proposed parking area would indeed be "transitional" and the proposed parking would cause minimal if any harm to the Green Belt.
17. The correct "planning balance" should be to consider the proposals for the whole of the site alongside any perceived harm to the Green Belt. The proposals include.
 1. The removal of a large area of gravel which cannot be removed by Planning Process.
 2. The erection of a trip rail to prevent the parking of vehicles all over the Site Area.
 3. Extensive Wildlife Planting which cannot be secured by Planning Process.
18. Our proposals to secure and enhance our Private Green Amenity Space have met with a negative response.
19. In addition to that Mr Bray as a Planning Enforcement Consultant to the Council has threatened Enforcement Action without further consideration.
(Email to this practice dated 3 January 2025 11:39am).
20. The Council will be aware that the area of gravel now seen was spread on the land 6 years ago and was seen by Council Officers at that time. Mr and Mrs Patel will sign Statutory Declarations confirming that if necessary.
21. The Council should take into account the form and content of our Pre-Application Enquiry and carefully consider this Representation before Serving any Enforcement Notice.

Yours Faithfully


P Cluxton MRICS

c.c. Jaymini Patel
12 The Highfields
Wightwick
Wolverhampton
WV6 8DW