

Appendix 11 – The Kings Copse Park Court Order and LDCs



**IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
PLANNING COURT**



CO/281/2021

BETWEEN:

R S HILL AND SONS LIMITED

Claimant

-and-

THE SECRETARY OF STATE FOR HOUSING, COMMUNITIES AND LOCAL GOVERNMENT

First Defendant

-and-

SOUTH OXFORDSHIRE DISTRICT COUNCIL

Interested Party

ORDER

UPON consideration of the Claimant's claim for statutory review, the papers filed in this matter, and the grant of permission decision dated 9 March 2021;

AND UPON the Defendant agreeing that the Inspector made an error as described in the statement of reasons;

AND UPON the Interested Party indicating they are not taking part in proceedings;

BY CONSENT IT IS ORDERED THAT:

1. The substantive claim for statutory review is allowed;
2. The decisions of the Defendant dated 14 December 2021 are quashed, and the appeal remitted to the Defendant to reconsider the decisions;
3. The Defendant is to pay the Claimant's reasonable costs in the claim, to be assessed if not agreed.

We consent to an Order in the above terms

Town Legal LLP

For the Government Legal Department

Town Legal LLP
Solicitor for the Claimant

Government Legal Department
Solicitor for the Defendant

M Reed

Head of Legal and Democratic

Legal Services, South Oxfordshire District Council
Solicitor for the Interested Party

Statement of Reasons

1. The Court is invited to exercise its powers in CPRPD8C, paragraphs 17.1 and 18.2, to approve an Order in the terms proposed above.
2. The Claimant applied for statutory review under section 288(1) of the Town and Country Planning Act 1990 against the decisions of the Planning Inspector ('the Inspector') dated 14 December 2020, to dismiss the Claimant's appeal seeking the grant of a Certificate of Lawfulness of Proposed Use and Development for the stationing of 145 residential mobile homes (Reference: APP/Q3115/X/19/3240630), and to dismiss the Claimant's related costs application. The Appellant's remedy is for the appeal decision to be quashed.
3. At issue in the appeal was the refusal to grant a Certificate of Lawfulness of Proposed Use and Development for the stationing of 145 residential mobile homes/caravans. The Inspector indicated that *'the baseline (or existing use) for this appeal is 116 caravans within the planning unit'*. However, the Claimant submitted evidence, which the Inspector accepted, that after the application for the Certificate of Lawfulness of Proposed Use and Development for 145 homes the Interested Party had granted a Certificate of Lawfulness of Existing Use or Development for the stationing of 129 residential mobile homes/caravans on 12 October 2020.
4. The Defendant's Inspector, when determining the appeal, does not adequately set out her reasons for concluding that, despite accepting the evidence of the Certificate of Lawfulness of Existing Use or Development for 129 homes, the baseline or existing use should be assessed as for 116 homes. In addition, when the Inspector went on to *'have regard to the LDCs certifying the lawful use of the entire site by 116 and 129 caravans'* she did not set out why this 'regard' did not affect the baseline of existing use against which the proposed use was to be judged there is substantial doubt that she took into account a key issue when considering whether the change of use of the site for the stationing of 145 caravans would amount to a material change of use.
5. The Defendant accepts that the Inspector should have given clearer reasons in relation to the baseline level of existing use at the site against which the proposed use was to be judged. Accordingly, the Inspector erred in determining the appeal by failing to properly explain why she concluded that the baseline or existing use at the site was 116 caravans. This argument relates to ground 1 only and to the challenge to the related costs decision (ground 5). The Defendant does not accept that grounds 2, 3 and 4 would succeed, but offers a practical solution through this concession.

6. The consent order is without prejudice to any future consideration in the redetermination of the appeal or otherwise of the parties' remaining contentions in the proceedings.

**ADMINISTRATIVE COURT OFFICE
PLANNING COURT
CONSENT ORDER AS ASKED**

A handwritten signature in cursive script, reading "Alan Combe". The signature is written in dark ink and is positioned above a long, thin horizontal line that extends across the width of the signature.

Planning Court Lawyer

Dated: 27 May 2021

In exercise of powers delegated by the President of the Queen's Bench Division

BY THE COURT

PLANNING

ELECTRONIC
VERSION

Planning Decision

P20/S0403/LDP

RS Hill and Sons Ltd
c/o RPS
20 Western Avenue
Milton Park
ABINGDON
OX14 4SH

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

Application No : **P20/S0403/LDP**

Description:

Confirmation that the proposed layout, comprising the stationing of 129 residential mobile homes (all falling within the definition of 'caravan' in the Caravan Sites and Control of Development Act 1960, as amended), with specific landscaping proposals, would not result in a material change of use of the caravan site at Kings Copse Mobile Home Park.

Land at **Kings Copse Lower Road Garsington OX44 9BL** which is shown edged red on the attached plan.

The South Oxfordshire District Council hereby certify that on 31st January 2020 the undertaking of the above would be lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended) for the following reason(s):

1. The use of the land edged red for stationing 129 mobile homes in the layout shown on drawing 1021-0001-13 would not comprise an intensification of such scale and kind, as to result in a significant and definable change in the character of the site and use. As such, as a matter of fact and degree, and having regard to both on-site and off-site impacts, the proposal would not constitute a material change of use. Therefore, planning permission for the proposal from the Local Planning Authority would not be required.



A handwritten signature in black ink, reading "Adrian D. Field". The signature is written in a cursive style with a long horizontal line extending from the bottom of the name.

Head of Planning
16th April 2020

Notes

1. This Certificate is issued solely for the purpose of Section 191 and 192 of the Town and Country Planning Act 1990 (as amended).
2. This Certificate confirms that the use(s) or operation(s) specified in the application were, would be or would have been lawful on the date specified as the date when the application was correctly made, and therefore not liable to enforcement action under Section 172 of the 1990 Act.
3. This Certificate relates only to the precise definition of the use(s) or operation(s) described in the application and specified herein, and solely to the land specified on the plan attached hereto. The undertaking of any development which is materially different from that described or on land to which this Certificate does not relate may render the owner or occupier liable to enforcement or other action by the local planning authority.
4. In circumstances where a Certificate is issued in relation to a proposed use or operation not yet implemented, Section 192(4) of the 1990 Act (as amended) provides that the lawfulness of a described use or operation is only conclusively presumed where there is no change in the material circumstances before the use in question is instituted or the operations begun. Accordingly you should bring any change in circumstances to the notice of The Local Planning Authority before commencing work.
5. If you are aggrieved by the decision of the Council you may appeal to the Secretary of State for the Environment Transport and the Regions in accordance with section 195(1) of the Town and Country Planning Act 1990. If you decide to appeal there is no time limit on the right to appeal, except in the case of appeals under S26K of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) which is limited to six months from the date of the decision.

The exercising of this right of appeal should be undertaken by giving written notice to the Secretary of State for the Environment. Formal Notice of appeal may be obtained from :

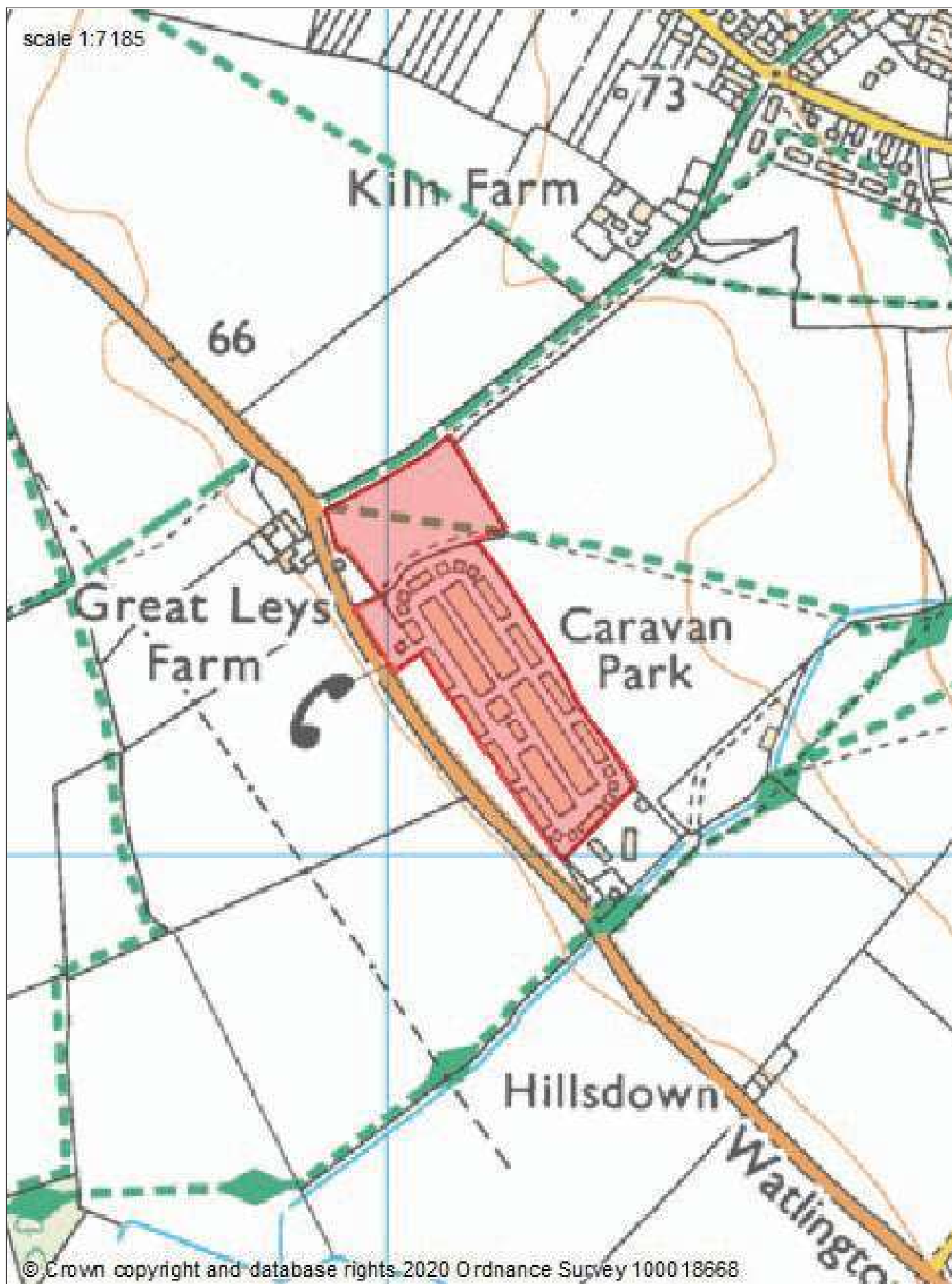
The Planning Inspectorate
Customer Support Unit
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN
Telephone : 0303 444 5000
www.planningportal.gov.uk
email: enquiries@pins.gsi.gov.uk

to whom any appeal should be subsequently addressed.

OTHER INFORMATION

The Planning Portal contains a wide range of helpful planning-related guidance and services. You may wish to view their website (www.planningportal.gov.uk).

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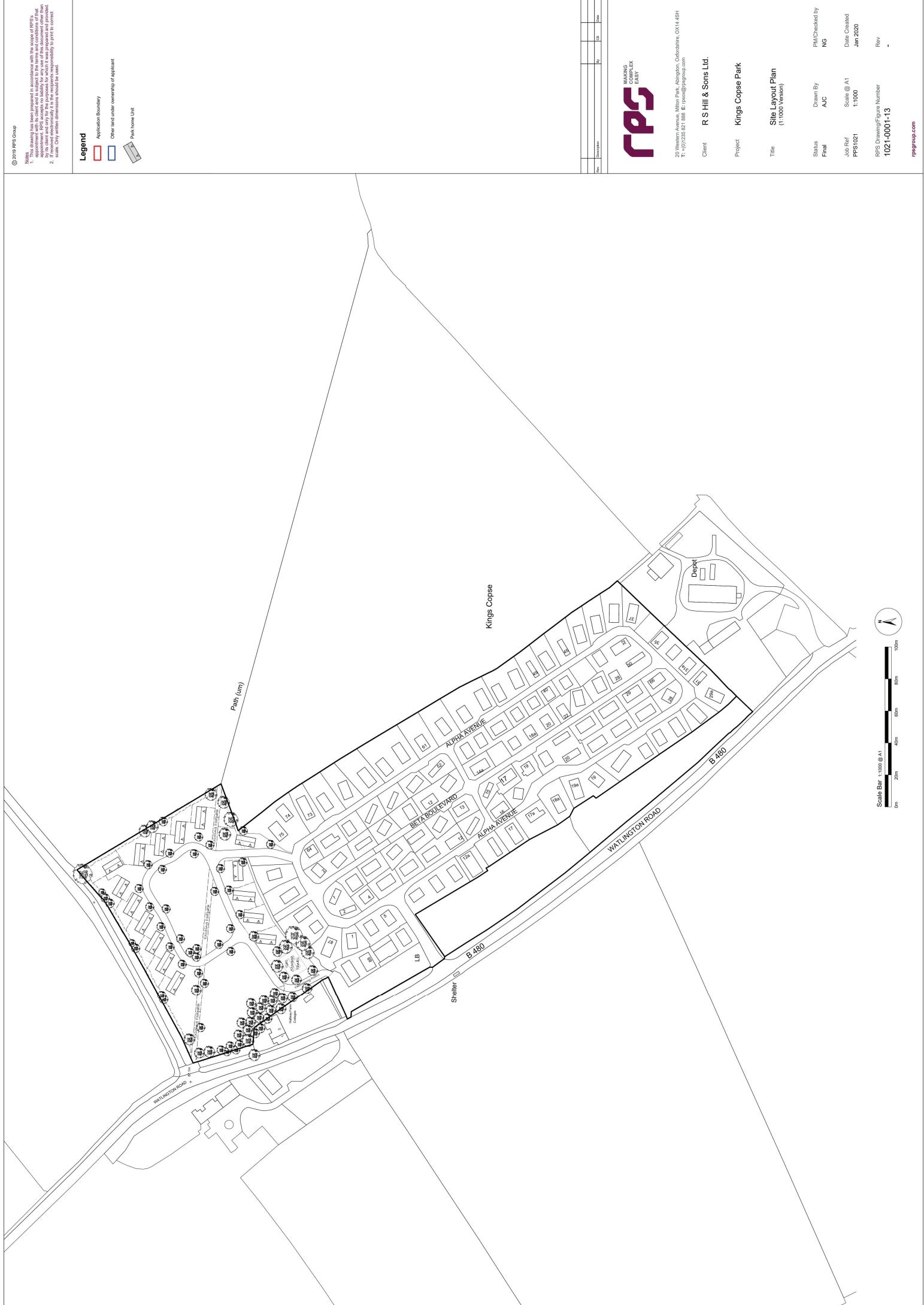


Listening Learning Leading

Reference: P20/S0403/LDP

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South Oxfordshire District Council / 100018668 / 2020



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Legend

- Application Boundary
- Other land under ownership of applicant
- Park Home Unit



20 Western Avenue, Milton Park, Abingdon, Oxfordshire, OX14 4SH
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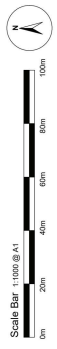
Client R S Hill & Sons Ltd.

Project Kings Copse Park

Title Site Layout Plan
(1:1000 Version)

Status	Drawn By	PM/Checked by
Final	AC	NG
Job Ref	Scale @ A1	Date Created
PFS1021	1:1000	Jan 2020
RPS Drawing/Figure Number	Rev	
1021-0001-13	-	

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PLANNING

ELECTRONIC
VERSION

Planning Decision

P21/S4232/LDP

RS Hill and Sons Ltd
c/o Laister Planning Limited
Oddfellows Hall, Ground Floor
London Road
Chipping Norton
OX7 5AR

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

Application No : **P21/S4232/LDP**

Description:

Confirmation that the proposed layout (as shown on drawing no. 1021-0001-10), comprising the stationing of 145 residential mobile homes (all falling within the definition of 'caravan' in the Caravan Sites and Control of Development Act 1960, as amended), would not result in a material change of use of the caravan site at Kings Copse Mobile Home Park.

Land at **Kings Copse Lower Road Garsington OX44 9BL** which is shown edged red on the attached plan.

The South Oxfordshire District Council hereby certify that on 8th October 2021 the undertaking of the above use was lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended) for the following reason(s):

1. The use of the land edged red for stationing 145 mobile homes (all falling within the definition of 'caravan' in the Caravan Sites and Control of Development Act 1960, as amended) as shown on drawing no.1021-0001-10 does not comprise an intensification . As such, as a matter of fact and degree, and having regard to both on-site and off-site impacts, the proposal does not constitute a material change of use of the land. Therefore, planning permission from the Local Planning Authority is not required and on the date of application, the land use described is considered lawful.

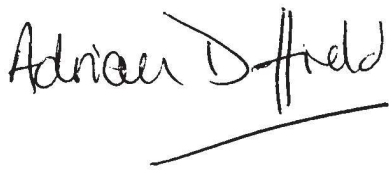


Reason for Decision

The use of the land edged red for stationing 145 mobile homes (all falling within the definition of 'caravan' in the Caravan Sites and Control of Development Act 1960, as amended) as shown on drawing no.1021-0001-10 does not comprise an intensification. As such, as a matter of fact and degree, and having regard to both on-site and off-site impacts, the proposal does not constitute a material change of use of the land. Therefore, planning permission from the Local Planning Authority is not required and on the date of application, the land use described is considered lawful.

In accordance with paragraph 38 of the National Planning Policy Framework the Council takes a positive and proactive approach to development proposals. The Planning Service works with applicants/agents in a positive and proactive manner by offering a pre-application advice service and by advising applicants/agents of issues that arise during the processing of their application and where possible suggesting solutions to problems.

Note : A more detailed explanation is available in the officer's report, available in the application case file.

A handwritten signature in black ink, appearing to read 'Adrian D. Field', with a horizontal line drawn underneath it.

Head of Planning
1st November 2021

Notes

1. This Certificate is issued solely for the purpose of Section 191 and 192 of the Town and Country Planning Act 1990 (as amended).
2. This Certificate confirms that the use(s) or operation(s) specified in the application were, would be or would have been lawful on the date specified as the date when the application was correctly made, and therefore not liable to enforcement action under Section 172 of the 1990 Act.
3. This Certificate relates only to the precise definition of the use(s) or operation(s) described in the application and specified herein, and solely to the land specified on the plan attached hereto. The undertaking of any development which is materially different from that described or on land to which this Certificate does not relate may render the owner or occupier liable to enforcement or other action by the local planning authority.
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5. If you are aggrieved by the decision of the Council you may appeal to the Secretary of State for the Environment Transport and the Regions in accordance with section 195(1) of the Town and Country Planning Act 1990. If you decide to appeal there is no time limit on the right to appeal, except in the case of appeals under S26K of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) which is limited to six months from the date of the decision.

The exercising of this right of appeal should be undertaken by giving written notice to the Secretary of State for the Environment. Formal Notice of appeal may be obtained from :

The Planning Inspectorate
Customer Support Unit
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN
Telephone : 0303 444 5000
www.planningportal.gov.uk
email: enquiries@pins.gsi.gov.uk

to whom any appeal should be subsequently addressed.

OTHER INFORMATION

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BUILDING OVER GAS MAINS AND SERVICES

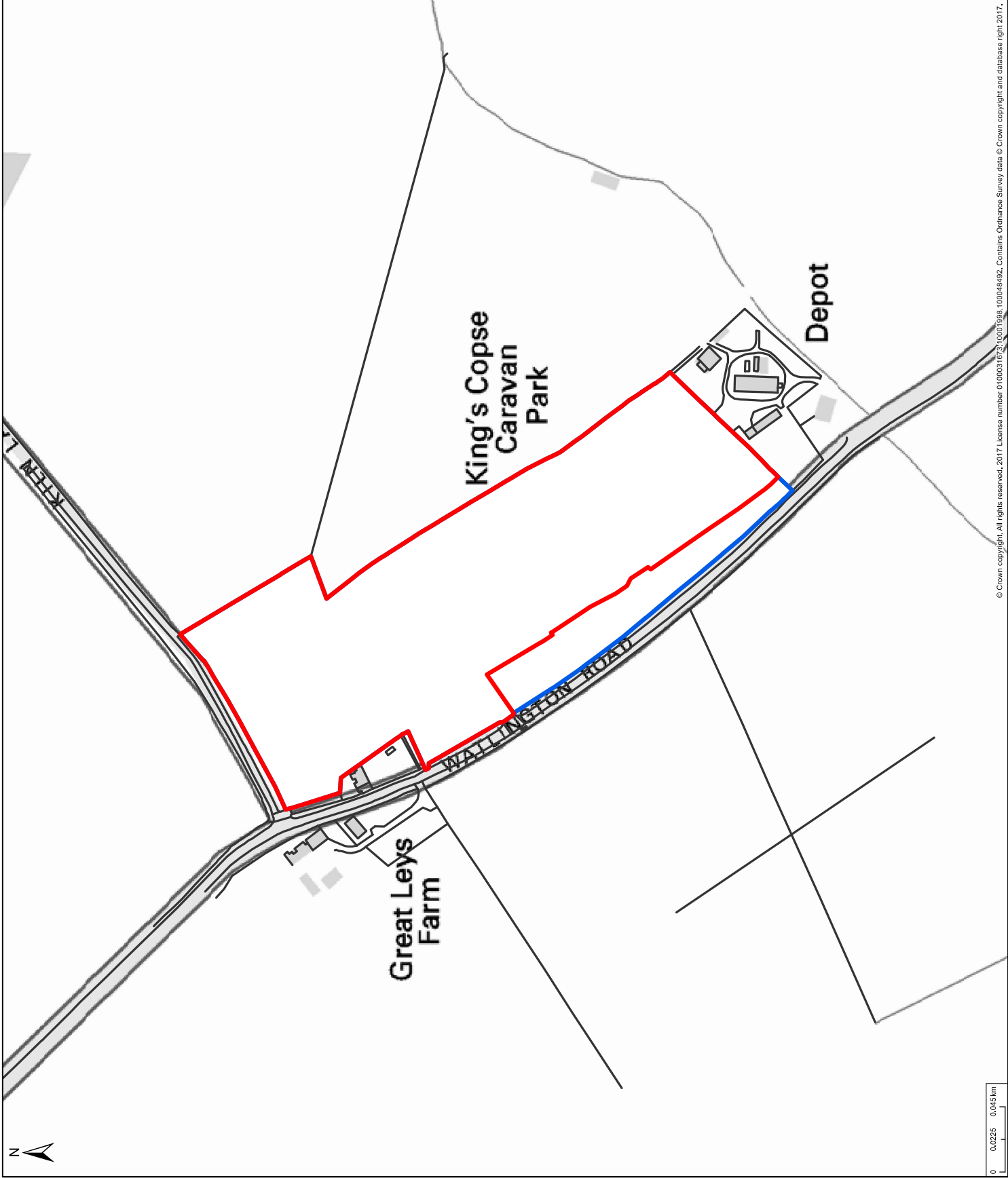
Please note before you plan to dig, or carry out building work within the SGN gas network, you must:

1. Check your proposals against the information held at <https://www.linesearchbeforeudig.co.uk/> to assess any risk associated with your development **and**
2. Contact the SGN Plant Protection team to let them know. Plant location enquiries must be made via email, but you can phone SGN with general plant protection queries. See SGN details below: Phone 0800 912 1722 or email plantlocation@sgn.co.uk

For further information please refer to:

<https://www.sgn.co.uk/damage-prevention>

<https://www.sgn.co.uk/help-and-advice/digging-safely>



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Notes

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Legend

Application Boundary

Other land under ownership/control of applicant

Revisions		Rev	Description	Date



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Client R S Hill and Sons Ltd

Project Kings Cope, Garsington

Title Site Location Plan

Status	Drawn By	PM/Checked by
FINAL	AUC	NG
Job Ref	Scale @ A3	Date Created
PPS1021	1:2500	June 2019
RPS Drawing/Figure Number	Rev	
1021-0016-01	.	

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