

JHB Planning

“Land south of Grange Road,” Netley Abbey, Title number: HP153408

**Enforcement Notice Appeal: Extension to area of hardstanding.
Appeal grounds; A, C, D, F, G appeal.**

Enforcement notice reference: ENF/2026/109

Appeal Statement

26th August 2026

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Introduction

This Appeal statement is provided in support of an appeal against planning enforcement notice ref. ENF/2026/109 issued by Eastleigh Borough Council for *“the laying of a hardstanding at Land on the South East side of Grange Road, Old Netley, Southampton, Hampshire”*

This appeal is submitted concurrently with an appeal against refusal for a Certificate of Lawful Existing Use relating to a dog exercise arena located within the same wider parcel of land (LPA ref. LDC/25/100673).

This statement sets out the proposed scheme in detail with regard to the following aspects: the planning history of the site, the development that has occurred, relevant planning legislation, relevant planning policy, and the development’s overall compliance with local and national policies.

Site and existing use

The application area (as identified within the enforcement notice red line) amounts to approximately 2640 sqm, contained within a larger holding of land under the applicant’s ownership amounting to approximately 0.5 hectares. The site is located to the south of Grange Road opposite a recycling centre. The site has an established access at the north eastern most point from Grange Road.

The wider site to the south west, outside of the redline boundary, is currently used as a dog exercise arena (of which lawfulness is being established under a concurrent application) comprising of an area of grassland with associated paraphernalia. This application refers to the eastern side of the site, contained within the redline boundary, comprising of an area of hardstanding. A mature hedge/treeline exists at all boundaries.

The surrounding area is of unique character; immediately north of the site is a waste recycling centre for household waste, a solar panel farm is located just north of the waste centre, and a mix of caravan camping and storage, farmsteads, and agricultural land with surrounding residential development lie further afield.

Planning history:

After completing a planning history check using the LPA’s online register of planning applications, the following items were returned.

Property Unique Reference Number: **010022809776**

Ref.	Proposal	Decision	date	Notes
F/14/74042	Change of use of agricultural field to dog training facilities (Sui Generis)	refused	14/03/2014	This application was retrospective for works having taken place in 2012
LDC/25/100673	Lawful Development Certificate for use of land as a dog exercise arena	Certificate Not Issued	23/02/2026	This refusal is concurrently being appealed.

	(existing development)			
	Retrospective application for extension to area of hardstanding.	refused	19/03/2026	This proposal refers to the same works appealed under this enforcement notice appeal.
ENF/2026/109	The laying of a hardstanding at Land on the South East side of Grange Road, Old Netley, Southampton, Hampshire	Enforcement notice served	27/07/2026	Enforcement notice to which this appeal related.

In 2014 a planning application was refused for retrospective use (having taken place in 2012) of the land as a dog training facility, however, the reason for refusal stemmed from the applicant's inability to provide sustainable transport contributions at that time, not the proposed use of the site. The application was assessed as acceptable in policy terms for change of use within the countryside.

Application LDC/25/100673 related to an LDC on part of the wider site within the applicant's ownership that has been refused but is concurrently being appealed with this enforcement notice appeal. While the LPA have refused this application, no enforcement action has taken place regarding the use of the site as a dog exercise arena.

Application **F/25/100674** relates to the same development as that which is the subject of Enforcement Notice **ENF/2026/109**. It is the appellants' position that the LPA acted unreasonably in issuing the Enforcement Notice before the statutory period for appealing the refusal of F/25/100674 had expired, thereby effectively curtailing the time otherwise available to pursue that appeal. Given that a retrospective application had already been submitted, considered and determined by the Council, it is considered that the LPA should have allowed the associated appeal period to run its course before taking further enforcement action. **This matter, including the relevant dates, appeal periods and implications of the LPA's approach, is discussed in greater detail later within this Statement.**

Site constraints and designations

After completing constraints checks using Land stack (an online site sourcing and planning data platform), EA flood risk, Historic England, Magic map, LA PROW, and LPA mapping, the following constraints on and nearby the site have been identified.

Constraint	Feature	Description/location
Pond	Pond	A small pond is located some 30m south of the hardstanding, however this does not result in any flood risk or surface water flooding on site.

Surface water flooding	Area of surface water flooding nearby	Located immediately east of the application area is a small area of woodland at risk of surface water flooding but not within a flood zone. The amount of risk is so minimal that even in a 1 in 1000 annual likelihood of flooding there is no risk of surface water flooding at the application area. The location of hardstanding does not appear to be at risk of surface water flooding.
TPO	TPO tree ref. 820-E	A singular tree protected by way of TPO is located approx. 80m north east of the site along Grange Road. The tree is not deemed to be impacted by the development having taken place.

Current planning policy context and relevant policies

This section aims to set out the most up-to-date policy/guidance documents and significant changes that may affect this proposal.

Legislation:

Section 171B of the Town and Country Planning Act 1990 sets out that breaches of planning control are exempt from enforcement action and established as lawful where development has been substantially completed for a period exceeding 10 years.

National:

The latest iteration of the **National Planning Policy Framework** was published on **17 August 2026** and represents a substantial departure from its predecessors, both in its structure and in certain areas of policy.

Annex A (2) states that development plan policies (or parts of those policies) which are materially **inconsistent with the national decision-making policies** (NDMPs) in the new Framework should be given **very limited weight**. That said, it does also state that other development plan policies should not be given reduced weight simply because they were adopted prior to the publication of this Framework.

The above changes will have several implications to the LPA's assessment of future planning applications, and the Inspectorate's assessment of this appeal. Most importantly that applications determined following the publication of the new Framework will need to have regard to the **2026 NPPF**.

Paragraph 3 of the introduction to the new NPPF, the new national decision making policies (NDMPs) are a material consideration in decision-making and should be read alongside the policies of the development plan. They are not statutory, and planning law continues to require applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. Accordingly, the primacy of the development plan is preserved, albeit subject to the weight which can properly be afforded to individual development plan policies where they are materially inconsistent with the new NDMPs.

Local level:

The Eastleigh Borough Local Plan 2016-2036 was adopted on 25 April 2022. It sets out the policies and plans to guide future development to 2036. Given the date of adoption, the local plan is less than 5 years old and is considered to be up to date.

While the local plan should be read as a whole, the relevant policies apply.

Grounds of Appeal

This appeal against enforcement notice is made under the following grounds:

Ground (a) – “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. Accordingly, the application fee outlined within the enforcement notice has been paid in full to the LPA.

Ground (c) – that, insofar as the Notice treats the entirety of the hardstanding as constituting the alleged breach, those matters do not constitute a breach of planning control, for the reasons advanced within this Statement.

Ground (d) – that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters, due to part of it being substantially complete for 10+ years.

Ground (f) – that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters, as not all of the hardstanding should be removed due to part of it being substantially complete for 10+ years.

Ground (g) – “that any period specified in the notice in accordance with [section 173\(9\)](#) falls short of what should reasonably be allowed due to the works and scheduling requirements to remove any hardstanding in the event that the appeal under grounds A fail.

Each of the above grounds of appeal will be discussed throughout this statement and referred to within the summary.

Retrospective development and historic development context.

The enforcement notice appeal is made retrospectively for an extension to an area of hardstanding to aid a dog exercise arena (of which lawfulness is being established under a concurrent appeal against refusal of LDC application).

The application is deemed an extension to an area of hardstanding as certain areas of the hardstanding shown on the site plan have long existed on the site, some areas dating back to 1999 and therefore benefiting from lawfulness established under section 171B of the Town and Country Planning Act 1990 (this is discussed in greater detail throughout this document).

While areas of hardstanding have been long existing, this application aims to address the lawful hardstanding and more recent retrospective hardstanding that forms an extension in one statement.



Block plan of all hardstanding, for reference only.

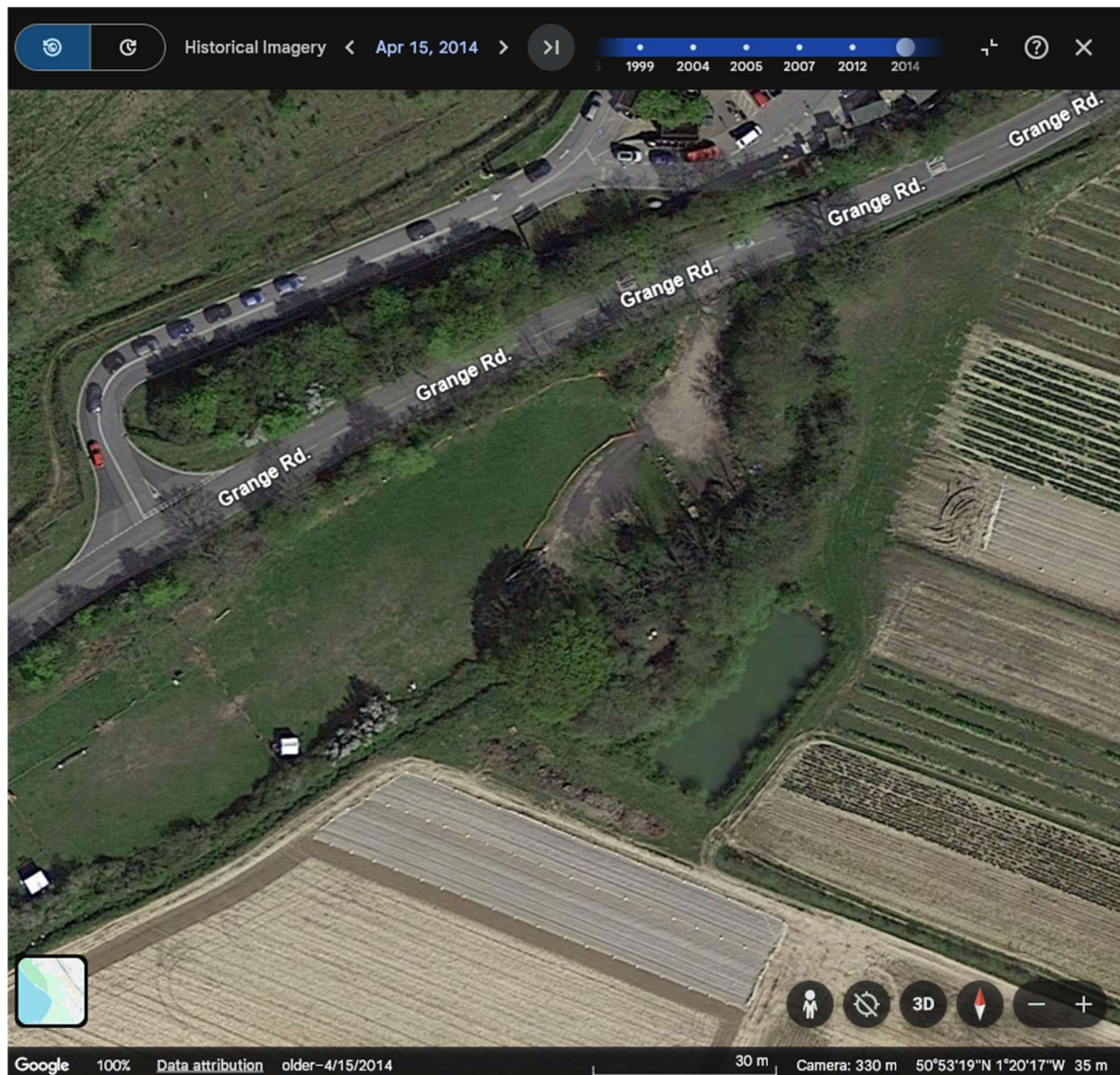
Historic hardstanding

As stated above some areas of the hardstanding date back to 1999. Evidence of this can be provided by historic satellite and street view images. Please see **Appendix 1: Historic Images** attached to this document.

As can be seen from the images, hardstanding had initially existed on the site in 1999 at the entrance to the site, likely in association with an agricultural/equestrian use, however use of the land as a dog exercise arena started in 2012, evidenced through google earth and street view imaging from 2012 showing signage at the property advertising use as a dog exercise arena.

Further evidence for the hardstanding being used in aid with the dog exercise arena is provided within **Appendix 2 - application form for planning application ref. F/14/74042**, stating that the change of use and development of the “car parking area” (the hardstanding) had taken place in 2012. While the plans for the 2012 application showed a greater amount of development than that in the satellite images, it still evidences that the area of hardstanding shown in the 2012 satellite image had been completed and in use to aid the dog exercise arena specifically in 2012 and was not in agricultural use.

The area of hardstanding was extended in 2014 from just the entrance area of the site to a greater area heading further south and west into the site, more aligned with that shown in the plans for application ref. F/14/74042.



Historic satellite imaging dated 2014 – Google earth

The satellite image shown above displays most clearly the full extent of hardstanding that benefits from lawfulness. While more recent satellite images appear to show greater areas of greenery, this is simply from overgrown vegetation on the hardstanding.

The Hardstanding shown above had existed on site since 2014 and has never been removed. The slow creep of this overgrown vegetation can be seen throughout the years in the various satellite images. The satellite images also display that no sudden changes were made to the area of hardstanding, further reinforcing that they are shown in 2014 had never been removed.

Given that the area of hardstanding shown in the 2014 satellite image has existed to the extent shown and was used in conjunction with the dog exercise arena since 2014, with concrete evidence displaying completion at the latest in 2014, this part of the hardstanding benefits from lawfulness under section 171B of the Town and Country Planning Act 1990 and the “10-year rule” having been substantially completed for a period exceeding 11 years.

Given the above, the area of hardstanding shown in 2014 to aid the dog exercise arena can be established as lawful, and therefore this application aims to apply for retrospective permission for an extension to the area hardstanding used conjunctively with the dog exercise arena to create the amount shown within the accompanying site plan.

This changes the principle of this application as it is no longer development of an undeveloped site and is rather the further extension to that which is lawful in aid to a local business that supports the rural economy, therefore relevant weight can be afforded in favour of the proposal where planning policies support this kind of development.

Extension to hardstanding

As detailed above this application is made in support of the extension of an area of hardstanding to make up the extent shown within the accompanying plans. The overall area of hardstanding that now exists as result of the extension is shown within the accompanying plans.

Reference is made that during planning investigation it was raised by the planning authority that some infilling had occurred to a ditch that may have contributed to some localised flooding. The council are aware that the ditch has been reinstated and the flooding issue has now subsided, as well as the fact that some of the flooding would have occurred due to abnormally wet weather and other local infrastructure issues. Nevertheless, remedial works have taken place in cooperation with the council, and therefore this application does not address any infilling of ditches.

The need for Hardstanding

The site is currently used as an established dog exercise arena and previously had an area of hardstanding. Given the nature and scale of the operations there is a need for extension to the hardstanding for the following reasons:

- Provision of parking space.
- Improve visual amenity by formalising and tidying the existing hardstanding through extension.
- Providing more formal designated parking.
- Provide a safe, and accessible environment that overcomes the limitations of grass or mud, and especially through surfacing the area between the existing hardstanding and the dog exercise arena reducing the need to walk through mudded areas which proves an accessibility issue for those with limited mobility.
- Providing an accessible environment that allows for easier cleaning and easier parasite control, as unlike grass the hardstanding can be more easily cleaned (which is a necessity given the public are expected to use the area of hardstanding, and dog waste when improperly cleaned can result in health hazards).
- Ensure that the premises can be used year round despite wet weather, supporting the business.
- Highways cleanliness by preventing tracking of mud from grassland to the highway.
- Canine safety, as for senior dogs or dogs with joint issues having an area of flat firm surface can be easier to navigate than grassland.

The area of hardstanding is related to, and reasonably necessary for, the existing business on site and provides necessary facilities for the business and evidence of how they support the rural economy.

The LPA state that there is no justification of the hardstanding as a recent LDC for use of the wider site as a dog exercise arena was refused, nevertheless this refusal is being concurrently appealed, and the LPA have not taken enforcement action against the dog exercise arena use.

Principle of development

The site is located within the countryside and also within a settlement gap in policy terms, therefore policies S5 and S6 of the local plan apply regarding the principle of development.

Policy S5 states that In permitting new development in the countryside the Borough Council will seek to: avoid adverse impacts on the character, intrinsic character of the landscape, heritage assets, and on the biodiversity of the area; secure long-term management practices that will enhance the landscape and biodiversity; safeguard the best and most versatile agricultural land unless the benefit of the development clearly outweighs the loss; and protect soils during construction.

Policy S6 states that Development within a Settlement Gap as set out in the policies map will be permitted provided that: it would not undermine the physical extent and/or visual separation of settlements; and it would not have an urbanising effect detrimental to the character of the countryside or the separate identity of the adjoining settlements.

Additionally, in the absence of a specific local policy regarding dog exercise arenas, the criteria of Policy DM17, DM18, and DM19 (Rural economy policies) can reasonably be afforded weight when assessing the principal development in the countryside. These policies generally support development that changes use from agriculture to other uses where agriculture is not viable, development that supports the rural economies, and development that provides other material benefits such as improvements to highway traffic/safety, and where development is not urbanising.

As above the use of the site as a dog exercise arena is being formally established in a concurrent application and the area of hardstanding present on site since 2014 can be established as lawful.

The principle of development for the addition of the extension to hardstanding can be deemed acceptable given the hardstanding is of a reasonable size to provide facilities for the above operations and supports the rural economy. Additionally, the long-established and lawful presence of hardstanding on the site forms an important part of the existing physical and planning context against which the extension should be assessed

As further discussed below the proposal is of a design suitable to the local character of the area and does not detract from the surrounding landscape character.

For these reasons, the retrospective development is deemed acceptable in principle according to Policies S5, S6, DM19, and requirements of the NPPF (2026) to support the rural economy.

Landscape impact

Policy S5 states that in permitting new development in the countryside the Borough Council will seek to: avoid adverse impacts on the character, intrinsic character of the landscape, and policies DM17, DM18, DM19 (Rural economy policies) support development where it is not urbanising.

Policy S6 states that Development within a Settlement Gap as set out in the policies map will be permitted provided that: it would not undermine the physical extent and/or visual separation of settlements; and it would not have an urbanising effect detrimental to the character of the countryside or the separate identity of the adjoining settlements.

Given that the character of the site has already been established as a dog exercise arena, the increase in amount of hardstanding presents only as small impact to the character. Furthermore, while the site is in the open countryside in policy terms, there are various other nearby developments of much more intense nature. Immediately north of the site is a waste recycling site, north of that is a solar farm. Heading east of the site approximately 200m along Grange Road is a farm yard that contains a mechanics workshop, and only 400m west of the site along Grange Road is a caravan camping and storage site.



Google earth satellite imagery 2025. Site circled in red.

As seen above the area the site is located in is already very intensely developed and therefore changes to the character through regularisation of the hardstanding are not deemed to be detrimental or further the urbanisation of the area.

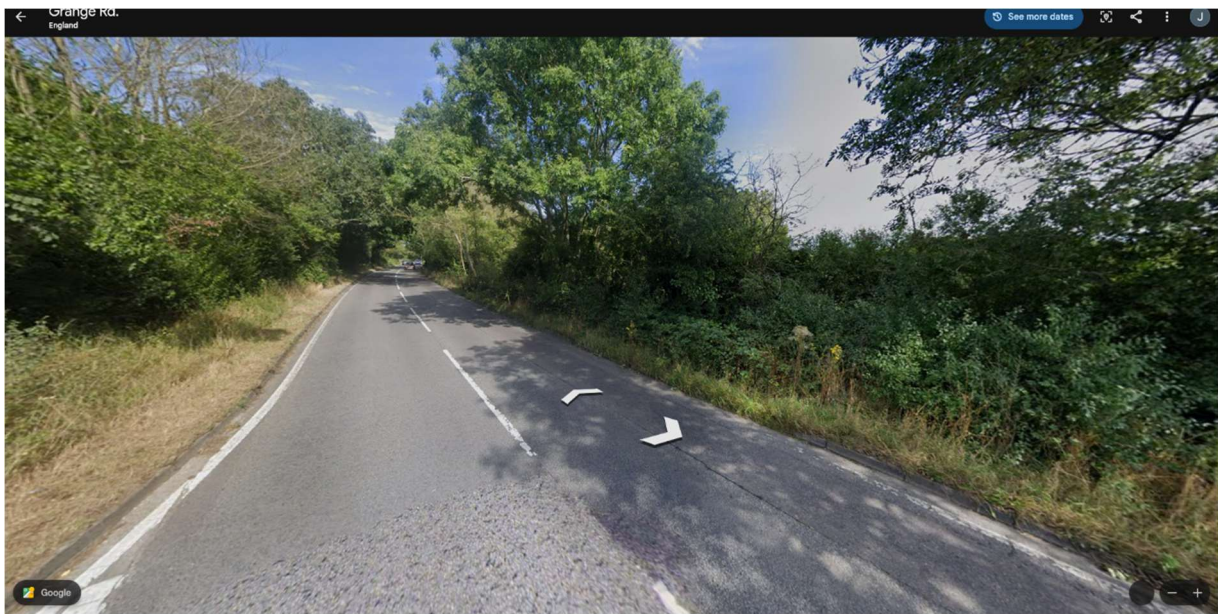
The development is also of such a small scale and does not contain any “built form”, so therefore maintains a rural appearance and does not constitute any “urbanising effect”.

When assessing at the impact of the hardstanding on the visual amenity it is noted that the site is not readily visible from any public vantage points. There are no PROW around or nearby the site that have a view of the area of extension to hardstanding. When looking at the site from various points along Grange Road the site is heavily screened by a mature hedgerow and treeline, and the area where the new hard surface is located is not visible. When looking directly into the site from the entrance some of the intensification of hardstanding is visible, but this forms improvement to the hardstanding that has been present at the entrance of the site since 1999 (as shown in images from Appendix 1) and therefore visual presence has already been established.

For the reasons above it can be established that there is limited impact to public amenity.



Looking into site from north eastern most point from Grange Road – Google street view



Looking at the site at the location where the retrospective hardstanding is located, view point from the entrance to waste recycling centre – Google street view

The site is not located within any statutory designation including National Landscapes or National Park boundaries.

Overall, the development is well suited to the location and results in negligible visual impact. Further, this type of development is exactly what is expected within such an area, given the rural nature of a dog exercise arena and necessity for a hard surfaced area.

Taking into account the context of the site; the nature of the development being an extension to an existing area of hard surfacing, the fact the hardstanding relates to and aids a dog exercise arena, that the development maintains the rural character of the site, and that the site is not located in any statutory designation, it is considered that the proposal would not have an adverse effect on the character and appearance of the area.

Whilst any form development will result in some change to the character of a site and the visual amenity of the area, the proposal is not considered to harm the character of the area or sense of place and is in compliance with local plan policies S5 and S6, and DM 17, DM18. DM19 (Rural economy policies)

Impact On trees

The site is bound by mature trees and contains an area of woodland which screen it well from the surrounding area and contribute to the character of the site and the wider area. In addition, a small area of woodland, is located at the southern boundary at the eastern most extent.

Given the extent of works carried out and the existing use of the wider land parcel as a dog exercise arena, no substantial impact on trees or habitats has occurred as a result of additional hardstanding.

Whilst changes have occurred within the site, the appellant's position is that these do not result in an unacceptable effect upon retained trees, and that, where necessary, appropriate mitigation and replacement planting can be secured.

Ecology

As the application is a retrospective under section 73A of the Town and Country Planning Act 1990 the requirement to achieve at least a 10% biodiversity net gain under the Environment Act 2021 does not apply.

Given the extent of works carried out and the existing use of the wider land parcel as a dog exercise arena, no substantial impact on trees or habitats has occurred as a result of additional hardstanding.

Whilst changes have occurred within the site, the appellant's position is that these do not result in an unacceptable effect upon biodiversity or retained vegetation, and that, where necessary, appropriate mitigation and replacement planting can be secured.

Highways and Access

The proposed development would utilise the existing vehicular access from Grange Road at the north eastern corner of the site.

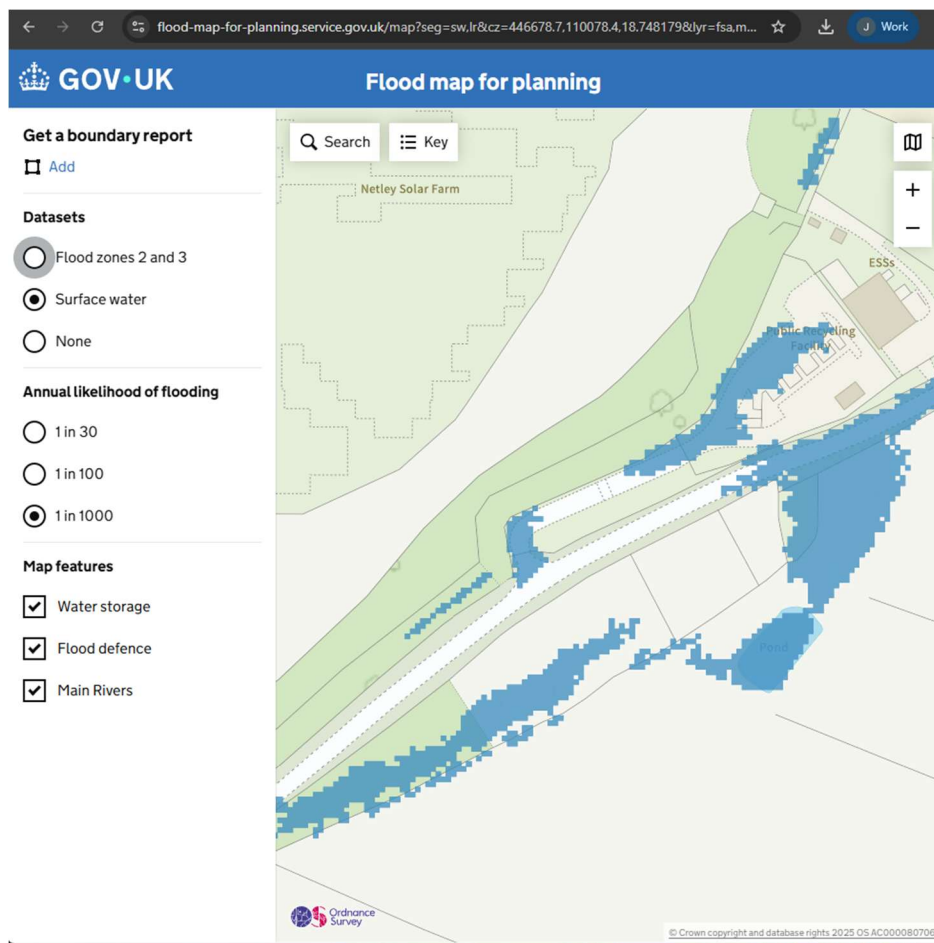
The hardstanding provides ample space for parking on the site, and the regularisation would limit mud tracked onto the road through reducing the need for cars to drive onto grassland at the site.

There would be no additional traffic generated than existing as the dog exercise arena is already operational.

Flooding and surface water Drainage

The development area is not within a flood zone as identified by the Environment Agency flood risk information for planning.

Small areas of land surrounding the hardstanding face a very low risk of surface water flooding, so low that even the extent of flooding prevalent in a 1 in 1000 annual likelihood would not make contact with the application area. In any case, the permeable nature of the land would adequately address any surface water concerns.



EA surface water flooding, 2025.

The development in question does not involve the construction of soakaways. Rather, surface water drainage utilises the existing properties of rainfall infiltration through the moderate permeability ground. The development does not involve the construction of an impermeable concrete or asphalt surface or the installation of soakaways. The hardstanding comprises an unsealed granular material through which a degree of infiltration can occur. Given the retrospective nature of the development, regard can also be had to its actual drainage performance. There is no evidence before the appellant that the hardstanding has resulted in unacceptable surface-water runoff or increased flood risk to surrounding land.

Reference is made that during planning investigation it was raised by the planning authority that some infilling had occurred to a ditch that may have contributed to some localised flooding. The council are aware that the ditch has been reinstated and the flooding issue has now subsided, as well as the fact that some of the flooding would have occurred due to abnormally wet weather and other local infrastructure issues. Nevertheless, remedial works have taken place in cooperation with the council, and therefore this application does not address any infilling of ditches.

All surfacing materials are semi-permeable and will allow the ground to drain by infiltration.

Heritage

The site is not within a Conservation Area or within the setting of any listed buildings. The hardstanding would not negatively impact on any heritage assets.

Response to local authorities' refusal of application F/25/100674.

The LPA state 9 reasons for refusal of application F/25/100674. Please see these set out below, along with **comments in blue**.

“

1. *The proposed hardstanding would represent an undesirable intrusion into an area of countryside and designated settlement gap for which there is no overriding agricultural or planning justification. As such the proposal is contrary to Policies DM5 and DM6 of the Local Plan.*

The LPA states that, following the refusal of the Lawful Development Certificate (LDC) relating to the use of the site as a dog exercise arena, there is no planning justification for the extent of hardstanding currently present on the site.

An appeal is currently being made against the refusal of LDC ref. LDC/25/100673. Given the clear relationship between the two matters, it is respectfully requested that both appeals relating to the site are considered concurrently. If the use of the dog exercise arena is found to be allowed, policy S5,1(a) of the NPPF 2026 is triggered, and the principle of development in the countryside should be approved.

It is our case that the use of the wider site as a dog exercise arena is readily apparent from the evidence available. Furthermore, even if the Inspector were to conclude that only a smaller proportion of the site benefits from lawful use as a dog exercise arena, that lawful use would nevertheless provide a planning justification for an increased area of hardstanding associated with that use.

In any event, it is also our position that those areas of hardstanding which have demonstrably existed on the site since at least 2014 require no further planning justification. Having remained in situ for the relevant period without enforcement action, those works would now be immune from enforcement action by virtue of the applicable 10-year enforcement time limit.

2. *The proposed development includes a significant and unjustified expanse of hardstanding laid across the entirety of the site and the subsequent loss of soft landscaping and trees with no replacement soft landscaping scheme provided to reintroduce planting to the site boundary. Furthermore, the proposed hardstanding material comprises a mixture of bricks, concrete, plastic and other waste material within the MOT Type 1 offering an unsuitable set of materials laid as hardstanding for this countryside location. Also, the poorly compacted material creates uneven levels and an unkempt appearance that creates a poorly designed and unduly harmful intrusion into an area of countryside which would be detrimental to the rural, verdant character and designated settlement gap the site is located within, amounting*

to significant overdevelopment. For these reasons the scheme has created a poor design that fails to respond to the character of this countryside setting, contrary to Policies S5, S6, DM1 and DM11 of the Local Plan and the aims of the Quality Spaces SPD.

As addressed throughout this report, justification for the extension of the area of hardstanding is provided, firstly, by the hardstanding which previously existed on the site which has demonstrably remained in situ since at least 2014, and secondly, by the functional need for hardstanding to serve the dog exercise arena forming part of the wider site, or which lawfulness is being established under a concurrent appeal.

The materials used within the extended area match those of the hardstanding which has existed on the site since at least 2014. It is therefore our view that the established presence and character of an MOT Type 1 hardstanding within the site forms an important part of the existing site context. The proposal would rationalise and extend this established area, whilst also providing an opportunity to more tidily reinstate and finish those areas of hardstanding which already existed. This would result in a material visual betterment when compared with the previous condition and appearance of the site and should therefore be afforded positive weight in the planning balance.

The site is also not readily visible from the public realm, with views largely limited to those obtained through the existing roadside entrance. Even from this viewpoint, the principal area visible is the hardstanding which has already existed on the site since at least 2014. As such the development would not be found to impact the countryside setting.

The LPA states that the materials used are unsuitable for the countryside location and that the hardstanding has been poorly compacted. However, the materials comprise clean material and do not contain "waste", as alleged by the LPA. It should also be recognised that newly laid hardstanding requires an appropriate period to settle before final compaction and finishing works are undertaken.

No further works were carried out to compact or otherwise finish the hardstanding whilst planning application F/25/100674 was under consideration. This was a deliberate approach intended to avoid undertaking further operational works which could potentially constitute an additional breach of planning control while the retrospective application remained undetermined. Should planning permission be granted, the hardstanding could be appropriately compacted, finished and, where necessary, further treated to ensure an acceptable appearance within its countryside setting. Any remaining concerns raised by the LPA regarding the materials, appearance or final treatment of the hardstanding could therefore be adequately addressed through the imposition of a suitably worded hard landscaping condition.

3. *Insufficient information has been provided to demonstrate the change in land levels across the site from the proposed hardstanding, with no existing or proposed level plan submitted. Without this provided the application cannot be accurately assessed to understand its impact on drainage and visual intrusion into the countryside, contrary to Policies DM1 and DM6 of the Local Plan.*

No detrimental alterations have been made to the existing site levels, nor has any substantial excavation taken place. Accordingly, the existing topography and slopes remain materially unchanged from the condition of the site prior to the extension of the hardstanding.

As discussed throughout this report, the area of hardstanding which has existed since at least 2014 was already visible from the public highway when looking into the site through the existing access. The remainder of the site is, however, well screened by established mature trees and vegetation and is not readily visible from public viewpoints. Consequently, the extended area of hardstanding has a limited visual presence within the wider landscape.

Furthermore, all surfacing materials used are semi-permeable, allowing surface water to drain naturally through infiltration and thereby limiting any adverse effect upon the existing drainage characteristics of the site.

4. *The installed hardstanding has not been compacted to secure the loose materials which could therefore enter the road network through vehicle movements when entering and exiting the site, and disrupt the safe flow of traffic along Grange Road, contrary to Policy DM13 of the Local Plan.*

As discussed above, it should also be recognised that newly laid hardstanding requires an appropriate period to settle before final compaction and finishing works are undertaken.

No further works were carried out to compact, level or otherwise finish the hardstanding whilst planning application F/25/100674 was under consideration. This was a deliberate approach intended to avoid undertaking further operational development which could potentially constitute an additional breach of planning control while the retrospective application remained undetermined.

Accordingly, the present appearance of the hardstanding should not necessarily be regarded as representative of its intended finished condition. Should planning permission be granted, the surface could be appropriately compacted, levelled and finished and, where necessary, subject to further treatment to ensure an acceptable appearance within its countryside setting. Any residual concerns raised by the LPA regarding the materials, appearance, compaction or final treatment of the hardstanding are therefore capable of being satisfactorily addressed through the imposition of a suitably worded landscaping condition, rather than warranting refusal of planning permission.

5. *The felling of trees on site have not been proposed to be replaced with trees that are of equal or enhanced value, and the proposal would result in a significant worsening to the visual amenity, green infrastructure and biodiversity of the site. Furthermore, retained trees have not been suitably protected, with hardstanding located around the tree trunk and above the tree collar causing significant harm and creating soil compaction reducing natural infiltration, harming the long term preservation of these trees. Also, due to the use of MOT Type 1 material comprising fine grains, this can stop gaseous exchange with the roots, exacerbating harm to trees. Furthermore, plans are inaccurate and do not show any loss of trees between the existing and proposed block plan, demonstrating inconsistencies with works carried out on site. For these reasons the proposal is contrary to Policies S5, S6, DM1 and DM11 of the Local Plan and the Trees and Development SPD.*

It is considered that, had the LPA acted reasonably and allowed the relevant appeal period following refusal of application F/25/100674 to expire, or alternatively invited the submission of a suitably amended or revised scheme, the concerns raised in relation to retained trees could have been properly addressed. A revised submission could, for example, have incorporated further reductions in the extent of hardstanding around the bases and root areas of retained trees, together with appropriate mitigation, remedial works and replacement planting.

Indeed, the hardstanding detailed within the recently refused application F/25/100674 already demonstrated that hardstanding was not proposed immediately around the bases or trunks of retained trees. Unfortunately, however, this appeal must now proceed in light of the circumstances surrounding the associated enforcement notice, as addressed elsewhere within this report.

That said, it is important to note that the enforcement notice to which this appeal relates does not explicitly define the precise extent or configuration of hardstanding currently present on the site. Nevertheless, the planning drawings accompanying this appeal similarly demonstrate that hardstanding is not proposed immediately around the trunks of retained trees. The proposal before the Inspector should therefore be assessed on the basis of the development shown on the submitted plans, including the proposed relationship between the hardstanding and retained trees, rather than solely on the present unfinished condition of the site.

Furthermore, for the purposes of this appeal, BNG does not apply to the development undertaken retrospectively, and the effects of the development should instead be considered having regard to the actual arboricultural and landscape impacts of the works and the mitigation that can reasonably be secured.

There is also an apparent inconsistency within the LPA's assessment of the hardstanding. On the one hand, the LPA alleges that the hardstanding has not been adequately compacted, whilst elsewhere asserting that the material has been compacted to such a degree that it reduces natural infiltration and causes harm to retained trees. These positions appear contradictory and should be afforded limited weight in the absence of clear technical evidence demonstrating the nature and extent of any actual harm caused to the retained trees.

6. *The application has failed to provide sufficient ecological information to enable the Local Planning Authority to assess the potential impact of the proposed development on protected species and provide any suitable mitigation required, particularly for great crested newts. In the absence of a Preliminary Ecological Appraisal, the proposal is contrary to Policy DM11 of the Local Plan, the requirements of the National Planning Policy Framework (NPPF) Section 15 – Conserving and enhancing the natural environment, and the Conservation of Habitats and Species Regulations 2017 (as amended).*

and

7. *The proposal has not provided a pre-development baseline biodiversity measurement or a biodiversity net gain plan to show that the site can result in an overall biodiversity net gain. With the scheme proposing a significant loss in biodiversity and no replacement biodiversity enhancements provided, the scheme is contrary to Policy DM11 of the Local Plan.*

As the development taken place is retrospective, the requirement to achieve at least a 10% biodiversity net gain under the Environment Act 2021 does not apply. Whilst changes have occurred within the site, the appellant's position is that these do not result in an unacceptable effect upon biodiversity or retained vegetation and that, where necessary, appropriate mitigation and replacement planting can be secured.

8. *Infiltration testing has not been provided to substantiate claims that the laid material can appropriately infiltrate surface water on site without entering the surrounding road network, the adjacent woodland or nearby ponds. Furthermore, no level plan has been submitted to demonstrate the changes to land levels across the site from the laid hardstanding to allow an assessment of further drainage impact from the change in levels. The drainage strategy*

has also not demonstrated compliance with hazard mitigation requirements in the Ciria SuDS manual. For the reasons the scheme is contrary to Policy DM6 of the Local Plan.

No substantial excavation or detrimental alteration to existing site levels has taken place, with the general topography and existing slopes remaining materially as they existed prior to the extension of the hardstanding. The surfacing comprises an unsealed granular material rather than an impermeable concrete or asphalt surface, and there is no evidence that the works have resulted in unacceptable surface-water runoff onto the highway, adjacent woodland or nearby ponds. Given the retrospective nature of the development, its actual drainage performance can also be considered. In the absence of evidence of any identified drainage harm, it is considered disproportionate to conclude that the development is unacceptable solely due to the absence of infiltration testing or detailed levels information. Nevertheless, should the Inspector consider further information or mitigation necessary, this could reasonably be secured through an appropriately worded condition requiring a suitable surface-water drainage scheme.

9. *The application was refused following the assessment of the following Plans: 2511GR_R1_000, 2511GR_R1_001, 22511GR_R1_002. In accordance with paragraph 39 of the National Planning Policy Framework (December 2024), Eastleigh Borough Council takes a positive approach to the handling of development proposals so as to achieve, whenever possible, a positive outcome and to ensure all proposals are dealt with in a timely manner. In this instance the application has been refused as it is contrary to the relevant policies of the Local Plan and the planning harm was unable to be resolved in a timely manner."*

Addressing the LPA's reasons for issuing enforcement notice

The LPA state the following reasons for issuing enforcement notice ref. ENF/2026/109:

4. REASONS FOR ISSUING THIS NOTICE

(1) It appears to the Council that the above breach of planning control has occurred within the last 10 years and that steps should be taken to remedy the breach in accordance with s.174(4) of the above act.

(2) The hardstanding represents an unjustified form of development in an area of designated countryside and within a settlement gap which, by reason of its layout, extent and design, has an unacceptably harmful and detrimentally urbanising impact upon the character of the land and that of the immediate surrounding area.

The hardstanding represents an undesirable intrusion into an area of countryside and designated settlement gap for which there is no overriding agricultural or planning justification. As such the proposal is contrary to Policies DM5 and DM6 of the Local Plan.

The development includes a significant and unjustified expanse of hardstanding laid across the entirety of the site and the subsequent loss of soft landscaping and trees with no replacement soft landscaping scheme provided to reintroduce planting to the site boundary. Furthermore the proposed hardstanding material comprises a mixture of bricks, concrete, plastic and other waste material within the MOT Type 1 offering an unsuitable set of materials laid as hardstanding for

this countryside location. Also the poorly compacted material creates uneven levels and an unkempt appearance that creates a poorly designed and unduly harmful intrusion into an area of countryside which would be detrimental to the rural, verdant character and designated settlement gap the site is located within, amounting to significant overdevelopment. For these reasons the hardstanding has created a poor design that fails to respond to the character of this countryside setting, contrary to Policies S5, S6, DM1 and DM11 of the Local Plan and the aims of the Quality Spaces SPD.

The installed hardstanding has not been compacted to secure the loose materials which could therefore enter the road network through vehicle movements when entering and exiting the site, and disrupt the safe flow of traffic along Grange Road, contrary to Policy DM13 of the Local Plan.

(3) The unauthorised development is contrary to:

- (a) Policies S5, S6, DM1, DM5, DM6, DM11 and DM13 of the Eastleigh Borough Local Plan 2016 – 2036,
- (b) the adopted Quality Spaces SPD,
- (c) the adopted Trees and Development SPD,
- (d) the requirements of the National Planning Policy Framework (NPPF), in particular Section 15 – Conserving and enhancing the natural environment.

(4) The Council does not consider that planning permission should be granted because retrospective planning permission has already been refused under application F/25/100674.

As addressed throughout this report part of the hardstanding on site has existed since at least 2014. This part of the hardstanding benefits from lawfulness under section 171B of the Town and Country Planning Act 1990 and the “10-year rule” having been substantially completed for a period exceeding 11 years.

The reasons for refusal of app ref. F/25/100674 have been addressed in the above section, and these same considerations are relevant to this appeal against enforcement notice.

Time period for compliance

At present the LPA time period for compliance is 3 months from the date the enforcement notice takes effect.

The period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

The notice requires the removal from the land the hardstanding, hardcore, and any sub base; Once the hardstanding, hardcore and sub base have been removed, reinstatement of a grassed surface;.

The amount of work required to complete the steps set out in paragraph 5 of the enforcement notice could not reasonably be completed within 3 months for the following reasons:

Complex Demolition: The physical removal of material from site requires more than the standard 1 to 2 months due to the amount of works required

Contractor Availability: Specialized trade labour and equipment cannot be booked within the tight timeframe originally demanded by the local authority.

Pending Alternative Applications: Extra time is requested to allow a parallel planning appeal for a LDC for that area of the land within the applicant’s wider ownership for use as a dog exercise arena to be properly decided.

For these reasons we propose a compliance period of **9 months** to allow to for remediations works to be carried out.

How the LPA have acted unreasonably

Application F/25/100674 relates to the same development that is the subject of Enforcement Notice ENF/2026/109. It is our view that the LPA acted unreasonably in issuing the Enforcement Notice before the statutory time limit for appealing the refusal of application F/25/100674 had expired.

The retrospective planning application had already been submitted to, considered and determined by the Council, with planning permission subsequently refused. The appellants therefore retained a statutory right to appeal that refusal. The six-month period for appealing the refusal of F/25/100674 would have expired on 19 September 2026.

However, Enforcement Notice ENF/2026/109 was issued on 27 July 2026 and required any appeal against the Notice to be lodged by 28 August 2026. As the Enforcement Notice relates to the same development as the refused retrospective planning application, its issue effectively curtailed the

period available to the appellants to consider, prepare and pursue their appeal against the refusal of planning permission, requiring the matter to be addressed approximately three weeks before the ordinary six-month appeal period would otherwise have expired.

In these particular circumstances, it is our view that the Council could have allowed the statutory appeal period associated with the refusal of F/25/100674 to run its course before taking further enforcement action. Accordingly, the Council could have waited until 19 September 2026 before issuing an Enforcement Notice if no appeal against the refusal had been lodged by that date. Alternatively, if the Council considered it necessary to issue an Enforcement Notice sooner, it could have delayed its issue until a point at which the statutory period for appealing the Enforcement Notice would not have curtailed or otherwise interfered with the appellants' existing right to appeal the refusal of planning permission.

Summary and conclusion

Ground A

The following factors weigh in favour of the grounds (A) appeal:

1. A substantial area of hardstanding has existed on the site since at least **2014**, with earlier areas evident from historic imagery dating back further. That part of the hardstanding which was substantially completed by 2014 is now immune from enforcement action under **section 171B of the Town and Country Planning Act 1990**, having remained substantially complete for a period exceeding 10 years. The established hardstanding therefore forms an important part of the existing physical and planning context against which the additional works should be assessed.
2. The additional hardstanding serves a clear functional purpose in connection with the dog exercise arena operating on the wider site, including the provision of parking, improved accessibility, year-round use, reduced mud transfer onto the highway and improved servicing of the existing use.
3. The impact on landscape character is deemed negligible given the existing uses on site, scale, mass, and amount of development.
4. The likely location of any development in relation to dog exercise arenas will be in the countryside. Simply because a site is within the countryside is not an automatic assumption that it will be harmful to the character of the area. In this instance, the site is located within the countryside and a designated settlement gap, but the development does not introduce built form and is limited to an extension of an established area of surfacing. The surrounding area already contains a range of developed and commercial uses, including the waste recycling centre, solar farm, farmyard uses and caravan-related development. The proposal would therefore not result in an unacceptable urbanising effect or materially undermine the function of the settlement gap.
5. The development has a limited visual impact. The site is heavily screened by mature boundary vegetation and is not readily visible from public viewpoints. Views into the site are principally obtained through the existing access, where hardstanding has already formed part of the established character of the site for many years.
6. The concerns raised by the LPA regarding the unfinished appearance, compaction and treatment of the hardstanding are capable of being satisfactorily addressed. The surfacing can be appropriately compacted, finished and, where necessary, subject to further treatment, with any residual concerns capable of being secured through suitably worded planning conditions.
7. Whilst concerns have been raised regarding trees and ecology, the appellant considers that these matters do not demonstrate that the development is unacceptable in principle. There remains scope for appropriate tree protection, remedial works, replacement planting and ecological mitigation. Where considered necessary and appropriate, such measures could be secured through suitably worded planning conditions.
8. The development has not led to any harm of nearby heritage assets or their settings.

9. The development is not at risk of flooding as defined by the environment agencies flood maps for planning and remediation work has been carried out to reinstate existing ditches on site.
10. In accordance with Policy S5 and paragraph 1(a) of the NPPF 2026, the principle of development is considered acceptable. The proposal supports an established rural use, represents an extension to long-existing hardstanding and, for the reasons set out above, would not result in unacceptable harm to the character, appearance or environmental qualities of the countryside.

Overall, therefore, the limited impacts of the development far outweigh the significant benefits as identified above. It is, therefore, considered that planning permission should be approved.

Ground C

Without prejudice to the appellant's case under Ground D, it is also contended under Ground C that, insofar as the Enforcement Notice purports to treat the entirety of the hardstanding as constituting the alleged breach of planning control, this does not properly reflect the established and longstanding nature of the hardstanding present on the site since at least 2014.

For the reasons and evidence set out within this Statement, the appellant therefore maintains the appeal under Ground C, alongside and without prejudice to the case advanced under Ground D.

Ground D

At the date on which the Enforcement Notice was issued, no enforcement action could be taken against that part of the hardstanding shown on the submitted planning drawings and historic satellite imagery as having been substantially completed by 2014. The evidence contained within Appendix 1 demonstrates that this area had remained substantially complete and in situ for a period exceeding 10 years prior to the issue of the Enforcement Notice. Accordingly, that part of the development was immune from enforcement action under section 171B of the Town and Country Planning Act 1990. The appeal should therefore succeed under Ground D insofar as the Enforcement Notice relates to this established area of hardstanding.

Ground F

The requirements of the Enforcement Notice exceed what is necessary to remedy the breach of planning control.

The Notice requires the removal of the hardstanding, hardcore and any sub-base from the land and the subsequent reinstatement of a grassed surface. However, the Notice does not distinguish between the more recently laid hardstanding and the area which had already been substantially completed by 2014 and which, for the reasons advanced under Ground D, was immune from enforcement action when the Notice was issued.

Accordingly, should the appeal not succeed in full under Ground A, the Notice should be varied so that its requirements relate only to those areas of hardstanding against which enforcement action may properly be taken, thereby allowing the established historic hardstanding to remain.

Ground G

The **three-month compliance period** specified within the Enforcement Notice falls short of what should reasonably be allowed having regard to the extent of the works required, including the

removal and transportation of hardstanding, hardcore and sub-base material, the availability of appropriate contractors and machinery, and the subsequent reinstatement of the affected land.

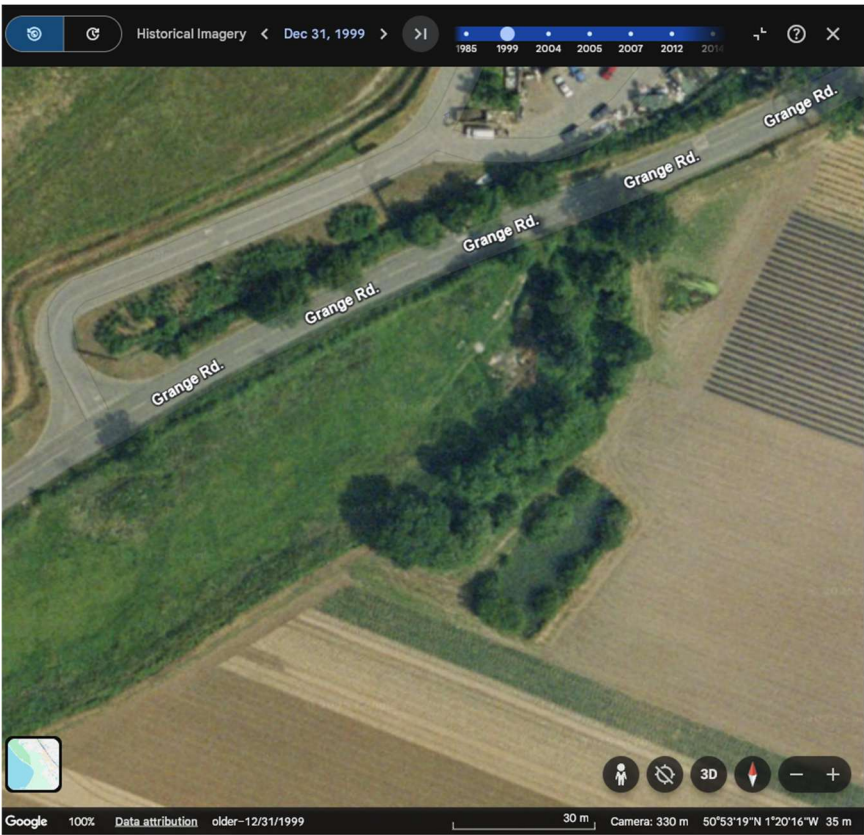
Accordingly, in the event that the appeals under Grounds A, C, D and/or F do not succeed in full, the appellant respectfully requests that the compliance period be extended from **three months to nine months** to provide a reasonable and practicable period within which any required remedial works can be properly undertaken.

Thank you in advance of your balanced consideration of the appeal.

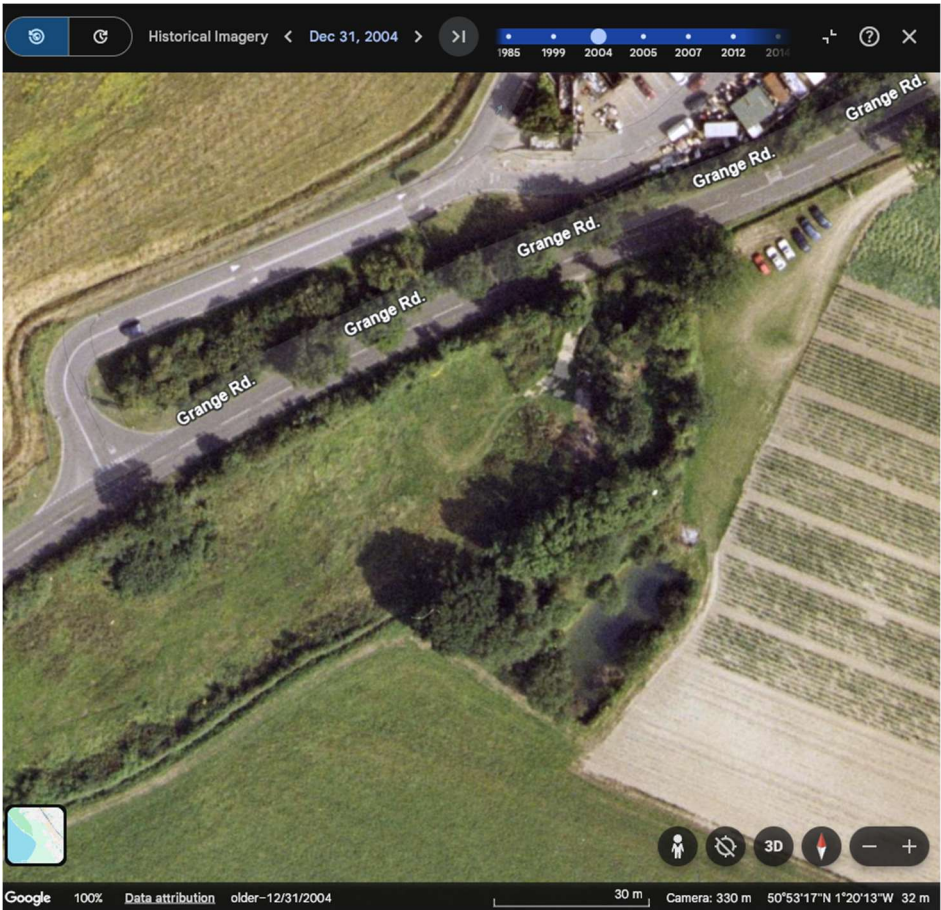
For the reasons set out within this Statement, the Inspector is respectfully requested to allow the appeal on the grounds advanced.

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

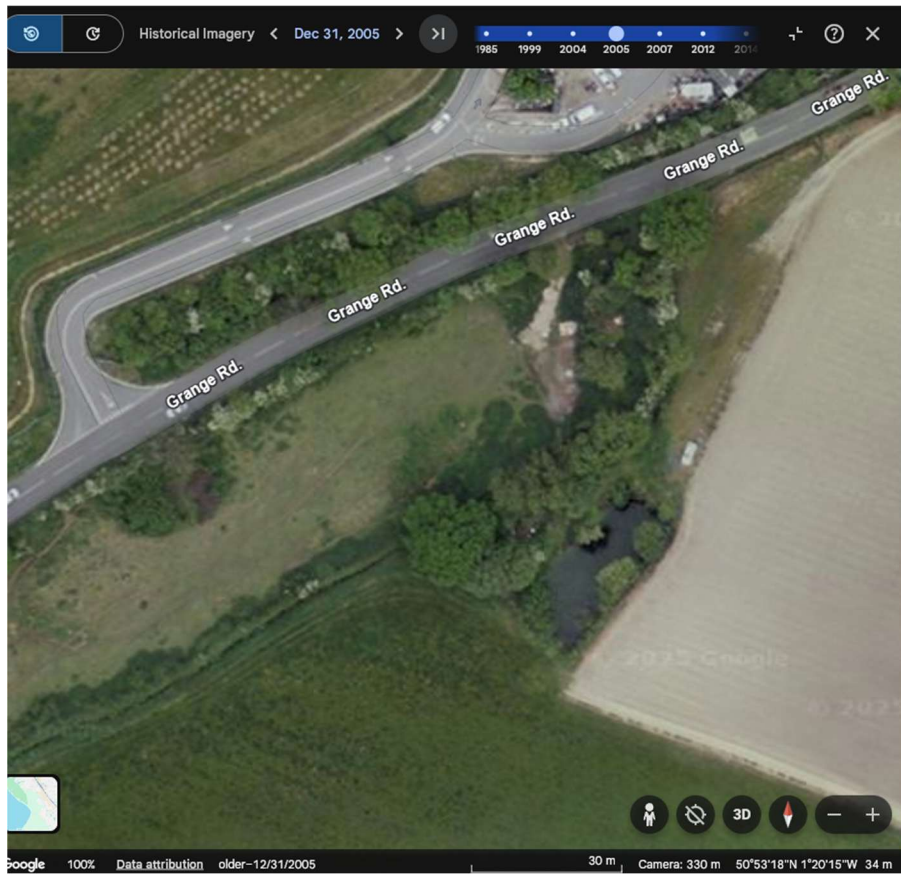
Appendix 1: Historic Images



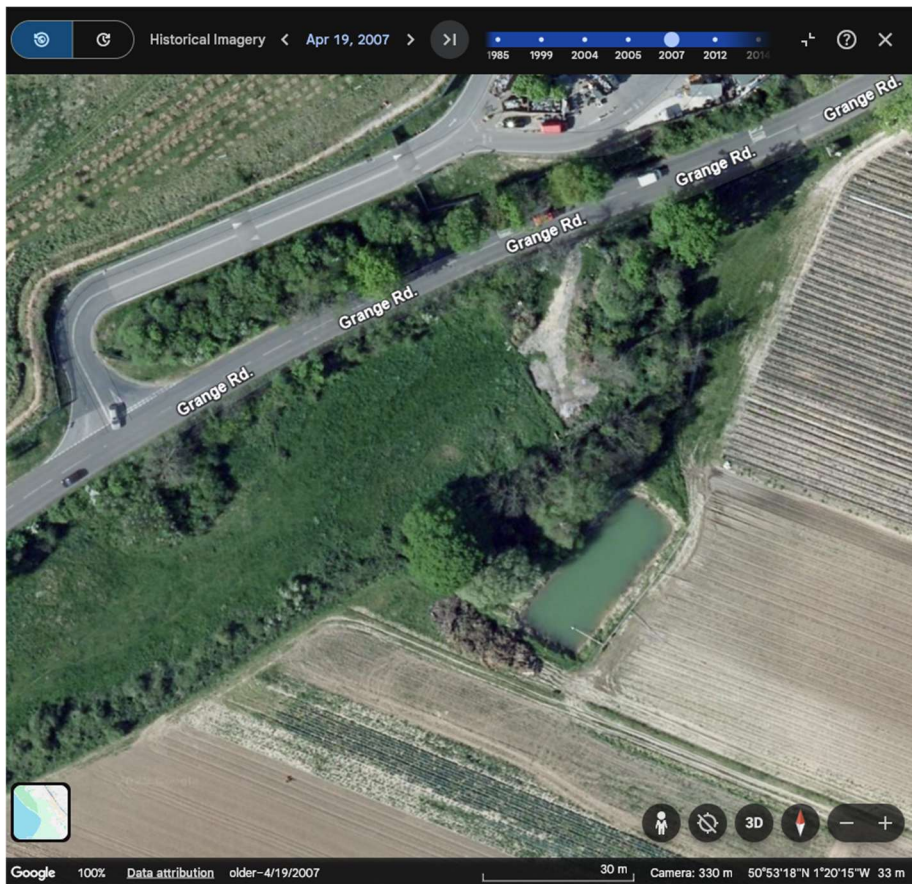
Historic satellite imaging dated 1999 – Google earth.



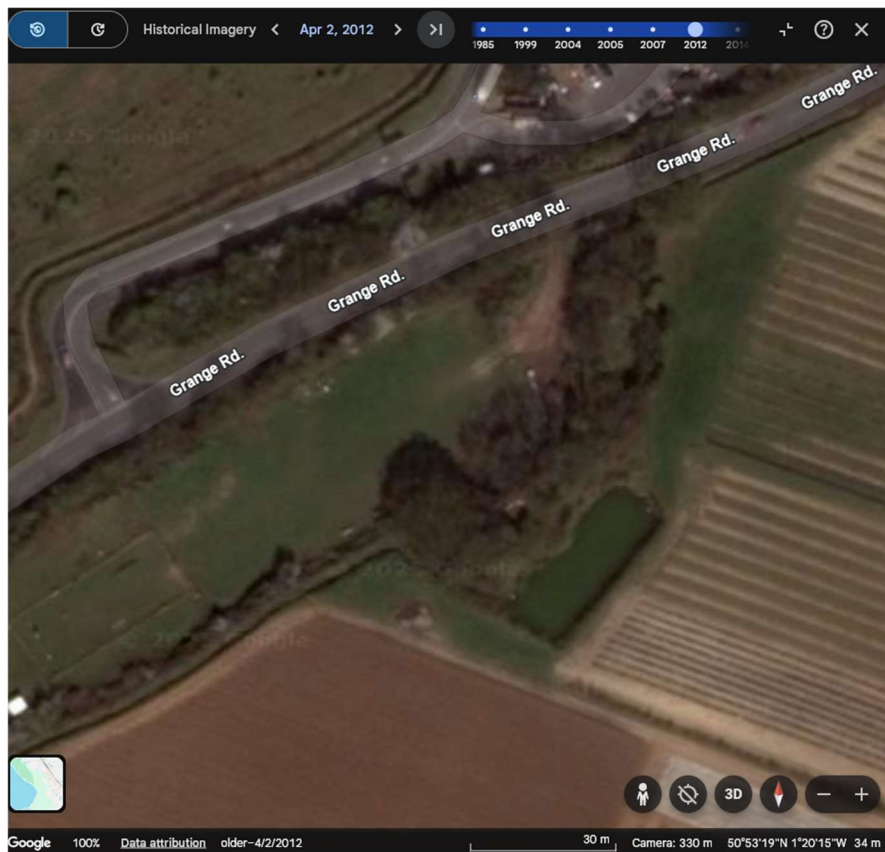
Historic satellite imaging dated 2004 – Google earth



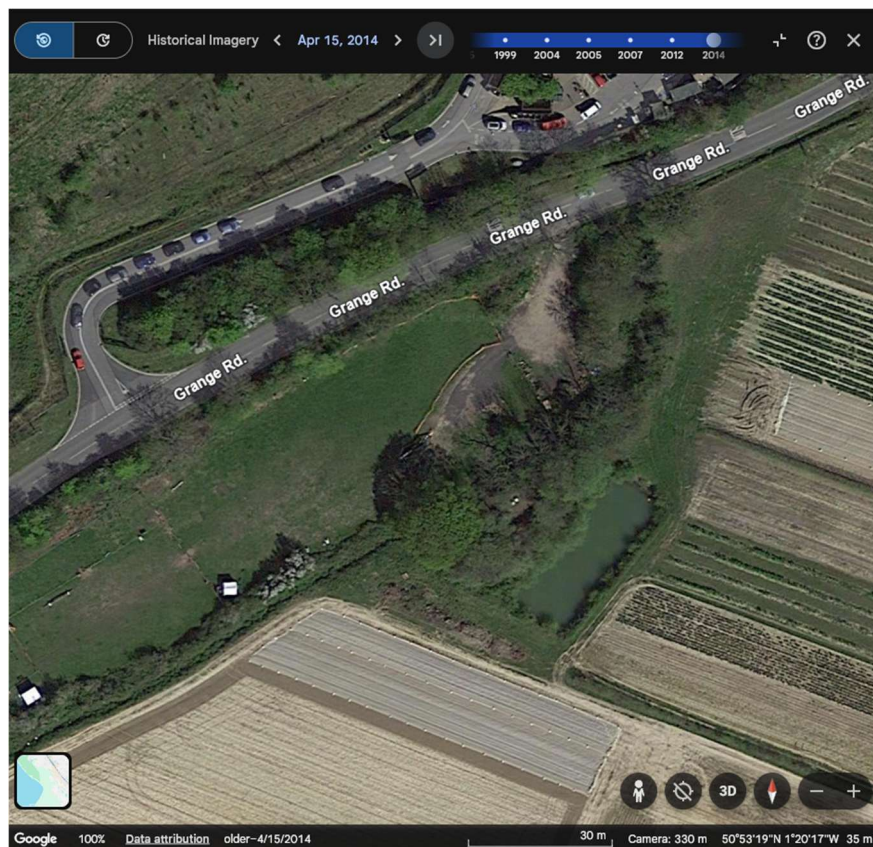
Historic satellite imaging dated 2005 – Google earth



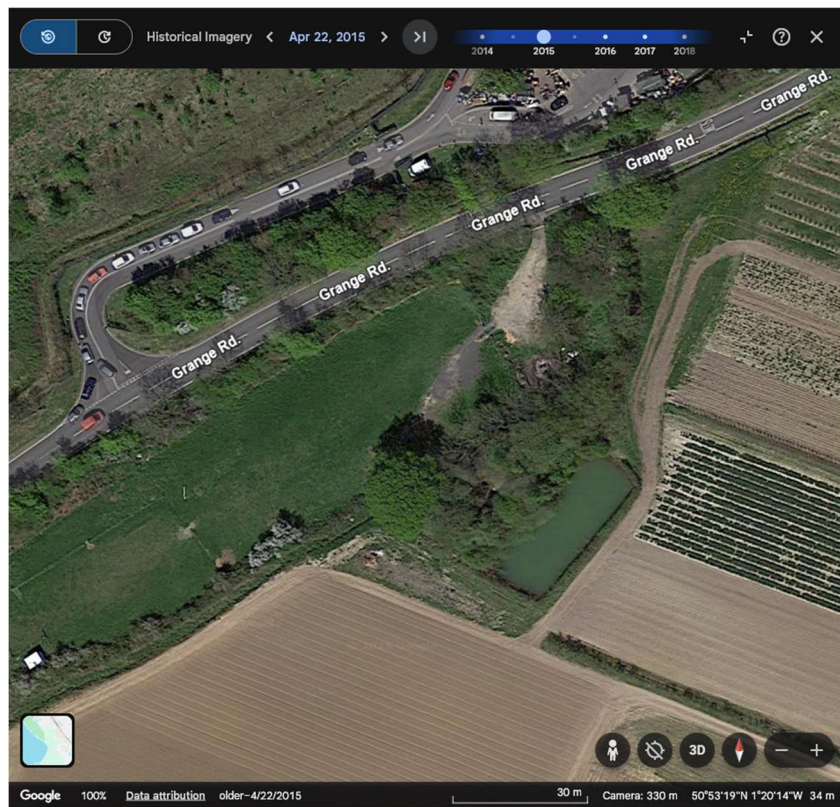
Historic satellite imaging dated 2007 – Google earth



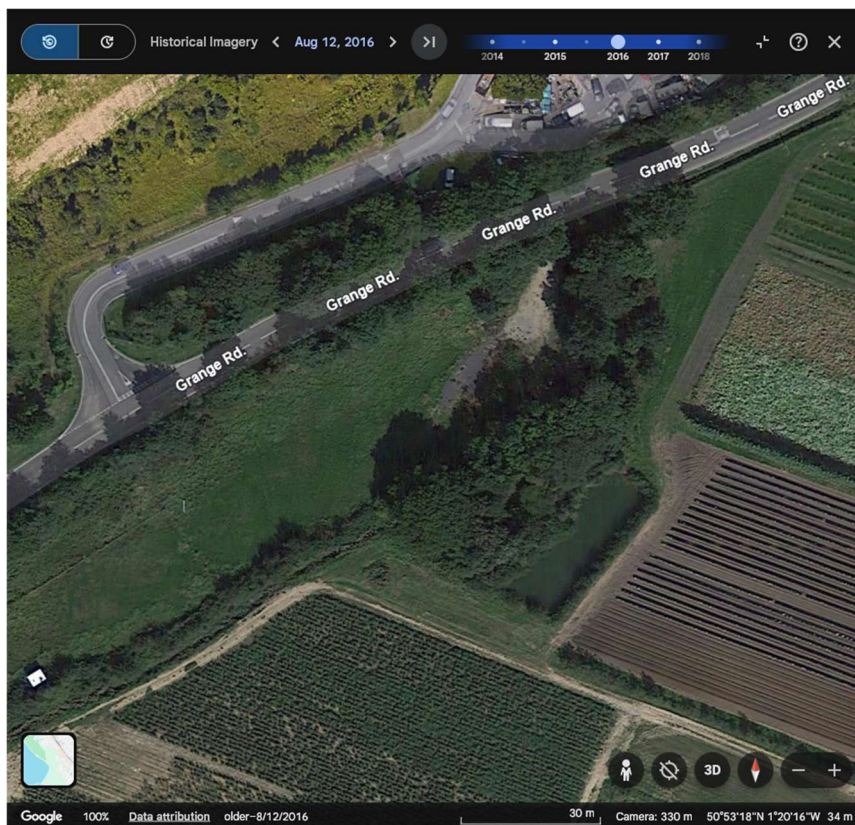
Historic satellite imaging dated 2012 – Google earth



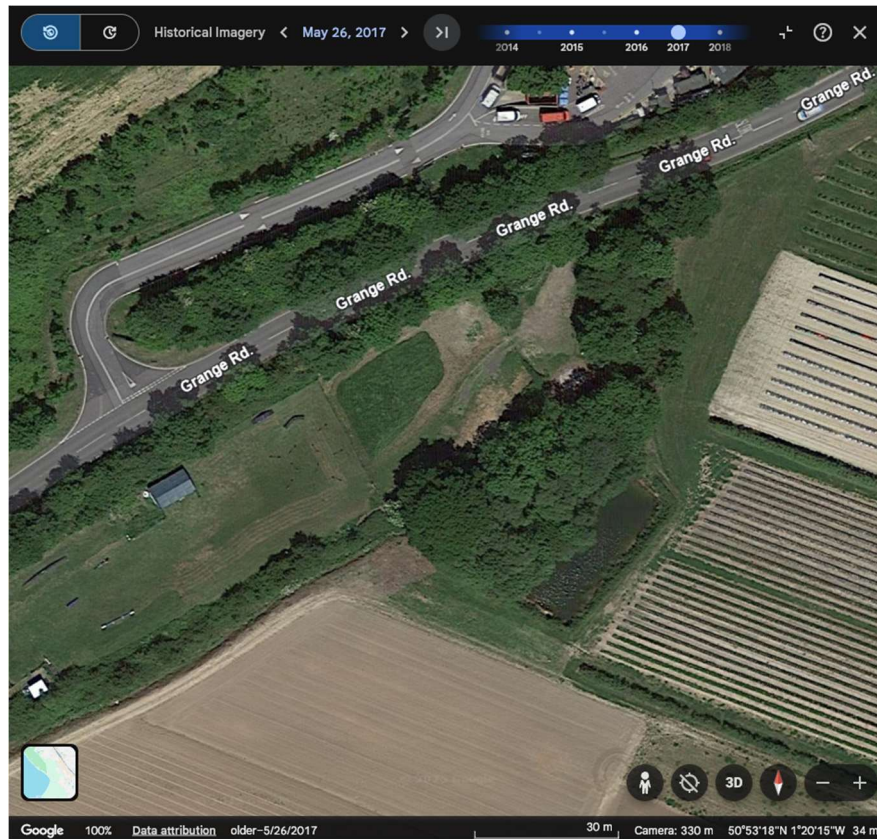
Historic satellite imaging dated 2014 – Google earth



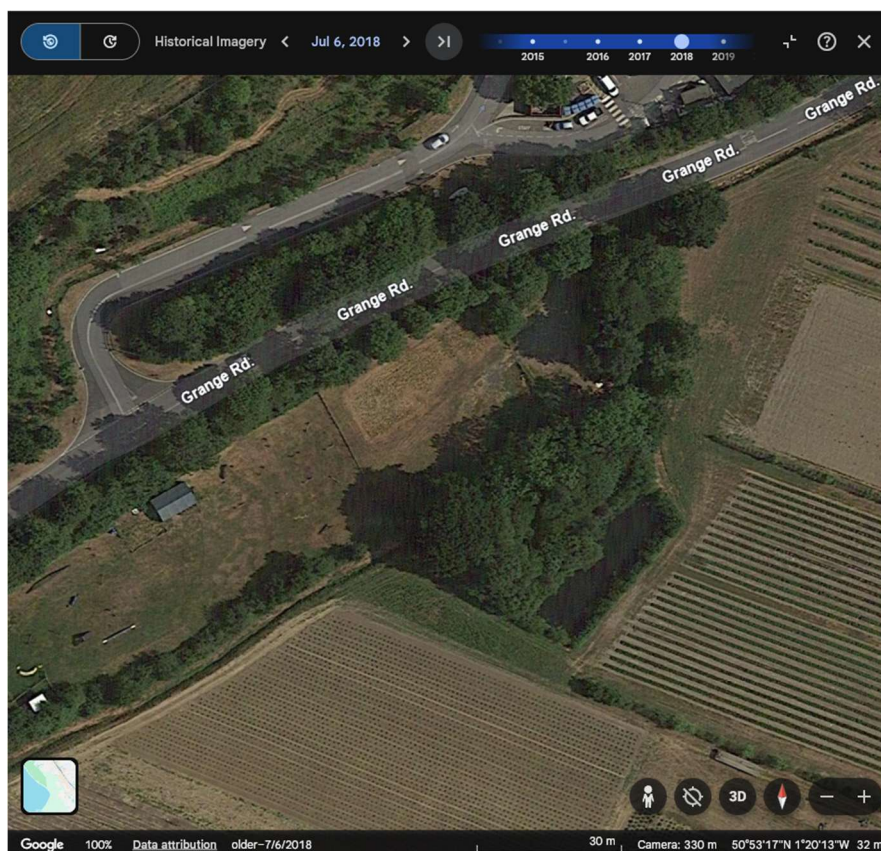
Historic satellite imaging dated 2015 – Google earth



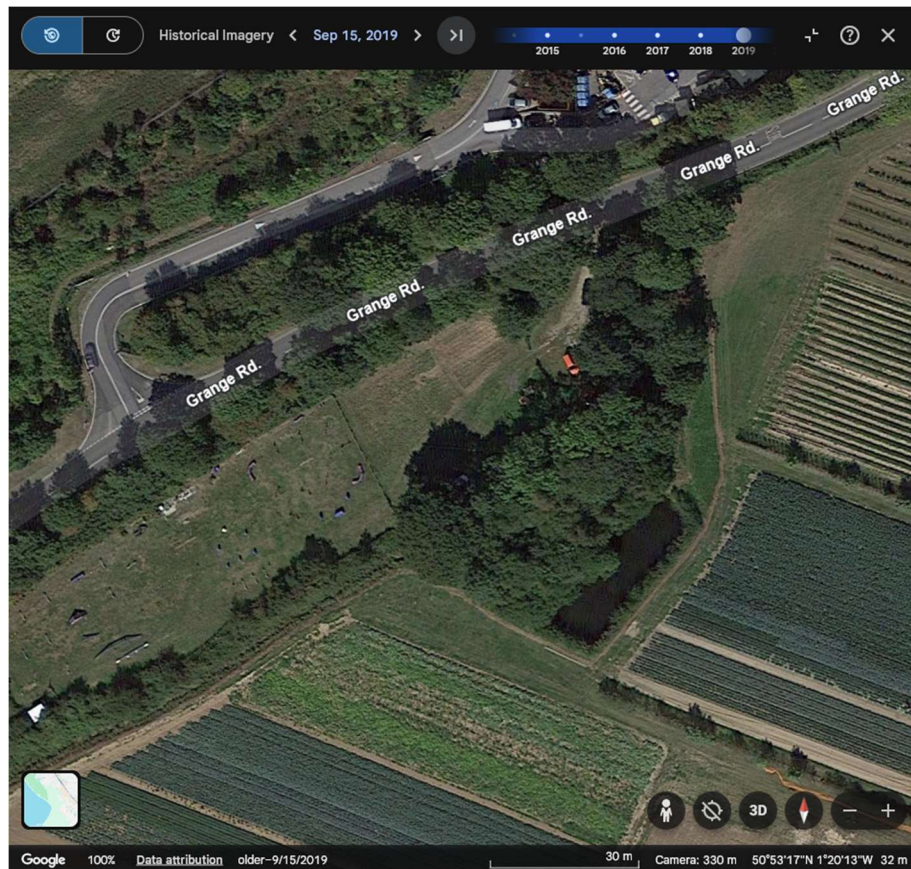
Historic satellite imaging dated 2016 – Google earth



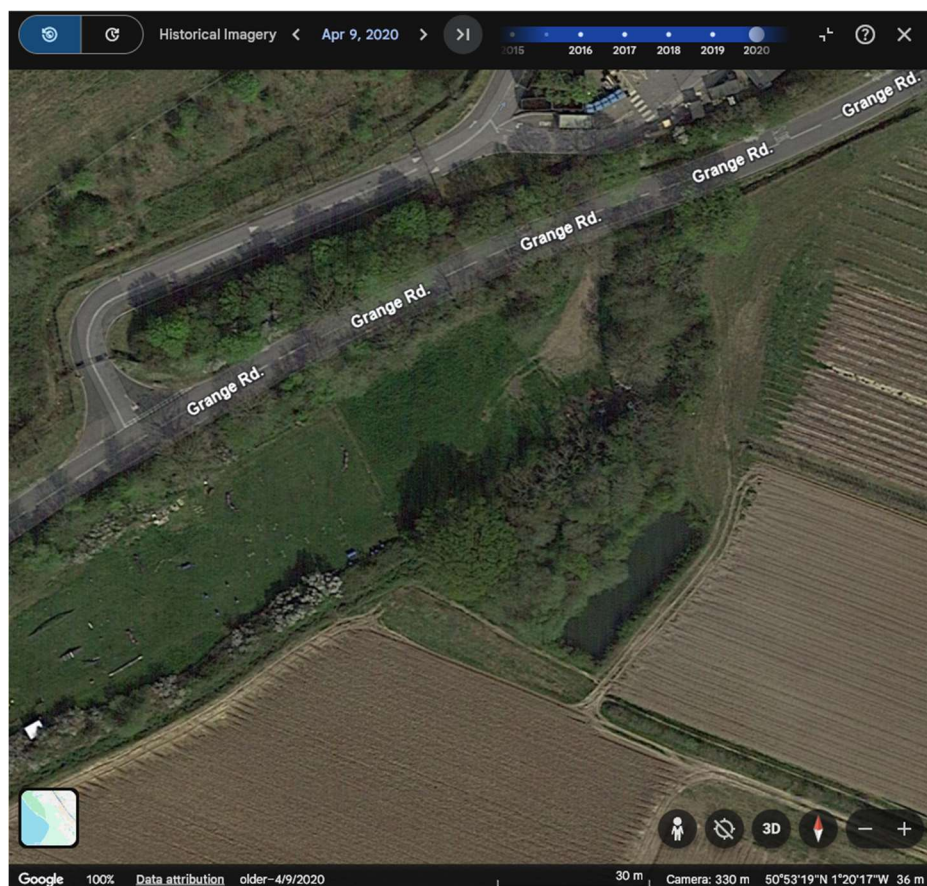
Historic satellite imaging dated 2017 – Google earth



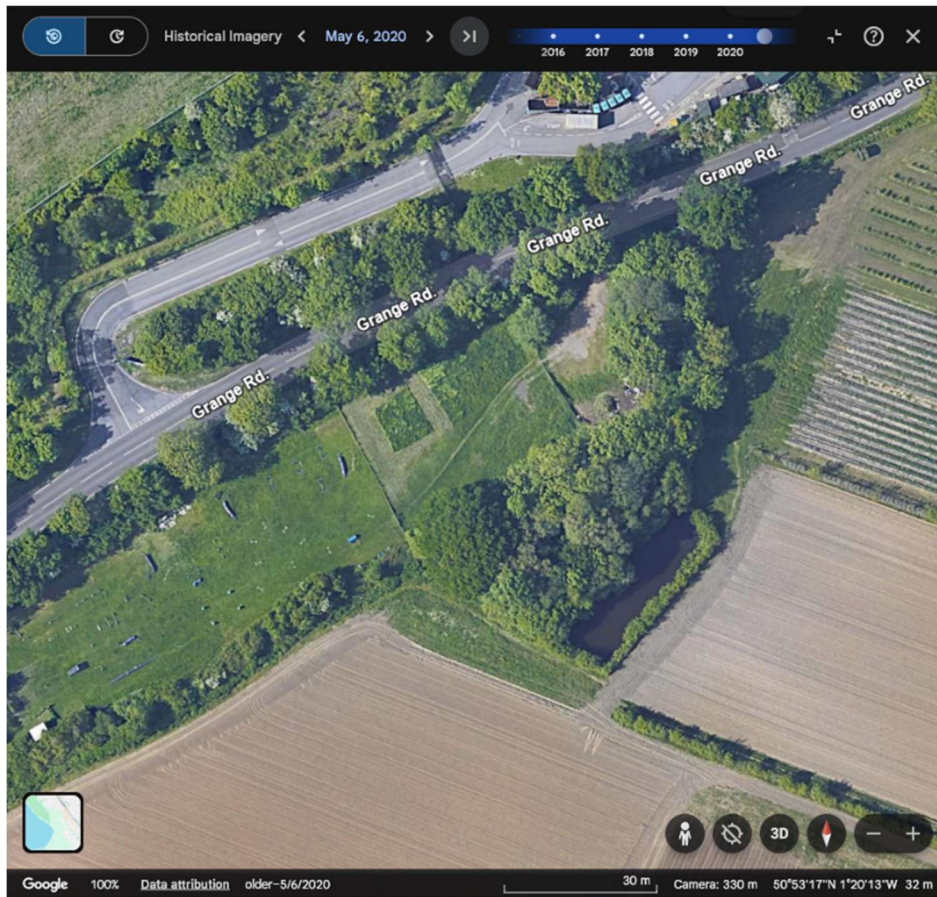
Historic satellite imaging dated 2018 – Google earth



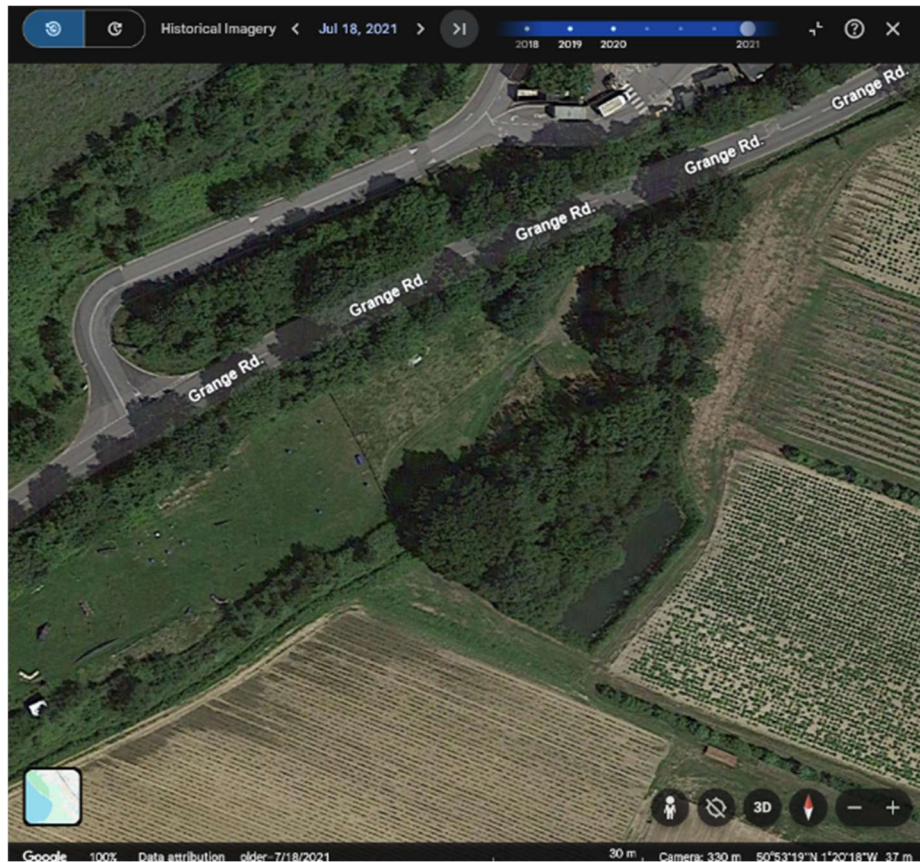
Historic satellite imaging dated 2019 – Google earth



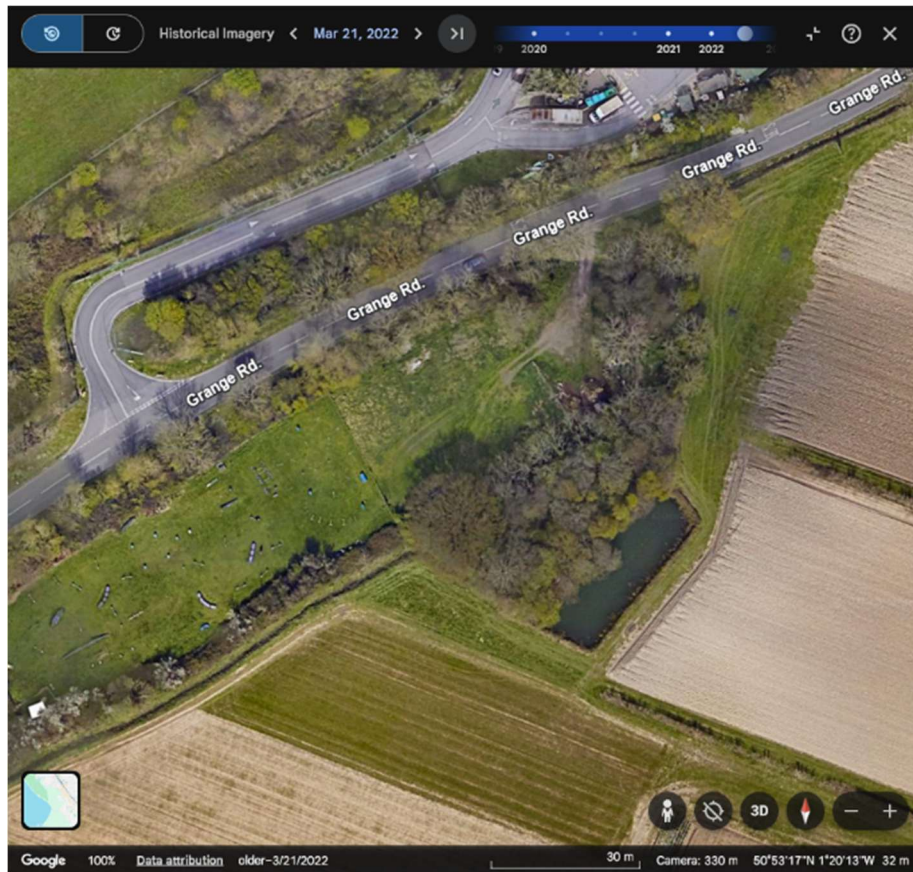
Historic satellite imaging dated April 2020 – Google earth



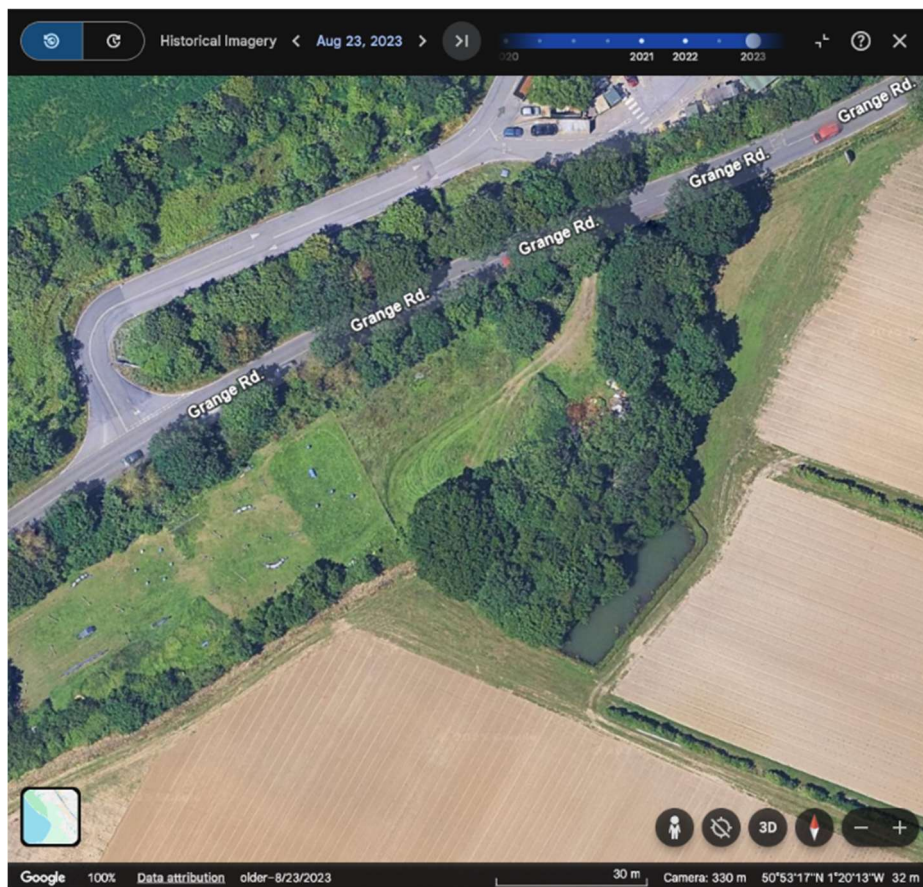
Historic satellite imaging dated May 2020 – Google earth



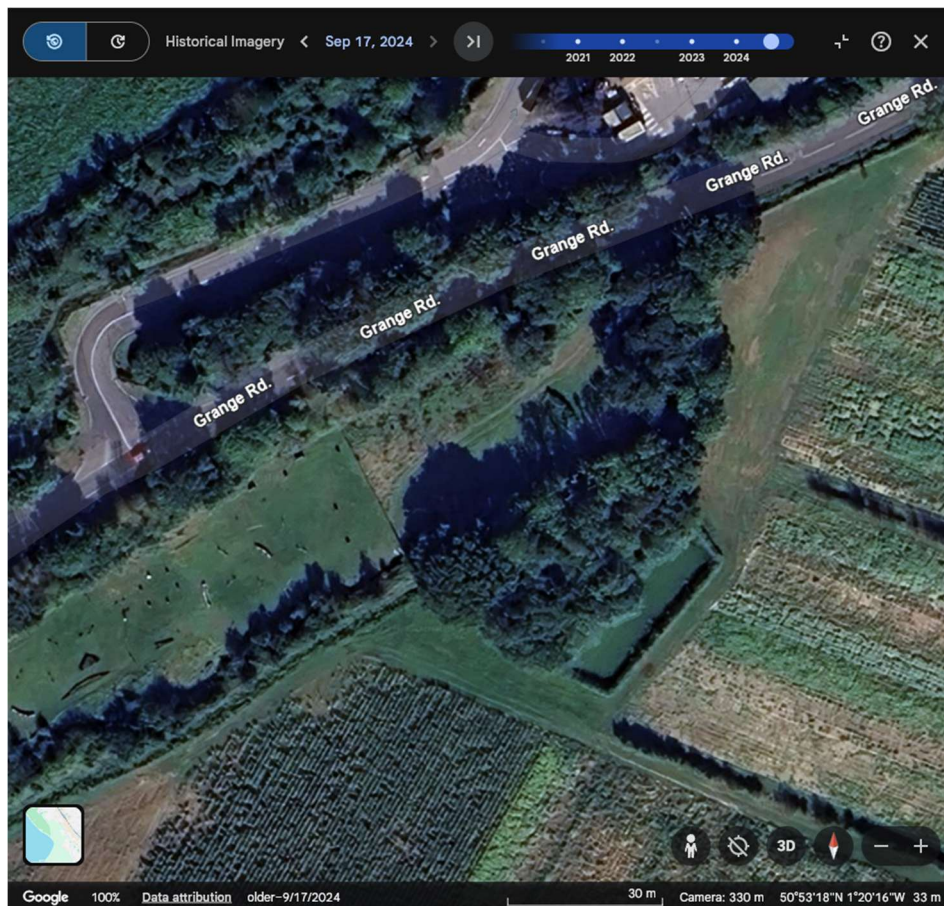
Historic satellite imaging dated 2021 – Google earth



Historic satellite imaging dated 2022 – Google earth



Historic satellite imaging dated 2023 – Google earth



Historic satellite imaging dated 2024 – Google earth



Historic image of entrance dated 2008 – Google street view



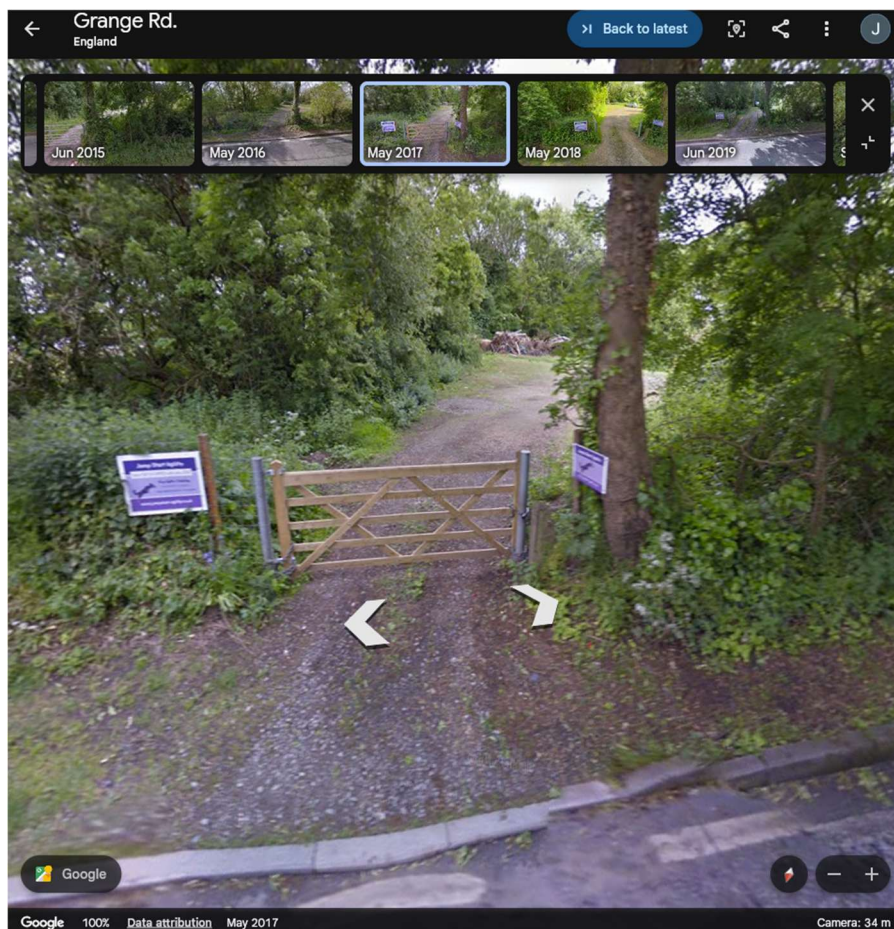
Historic image of entrance dated 2011 – Google street view



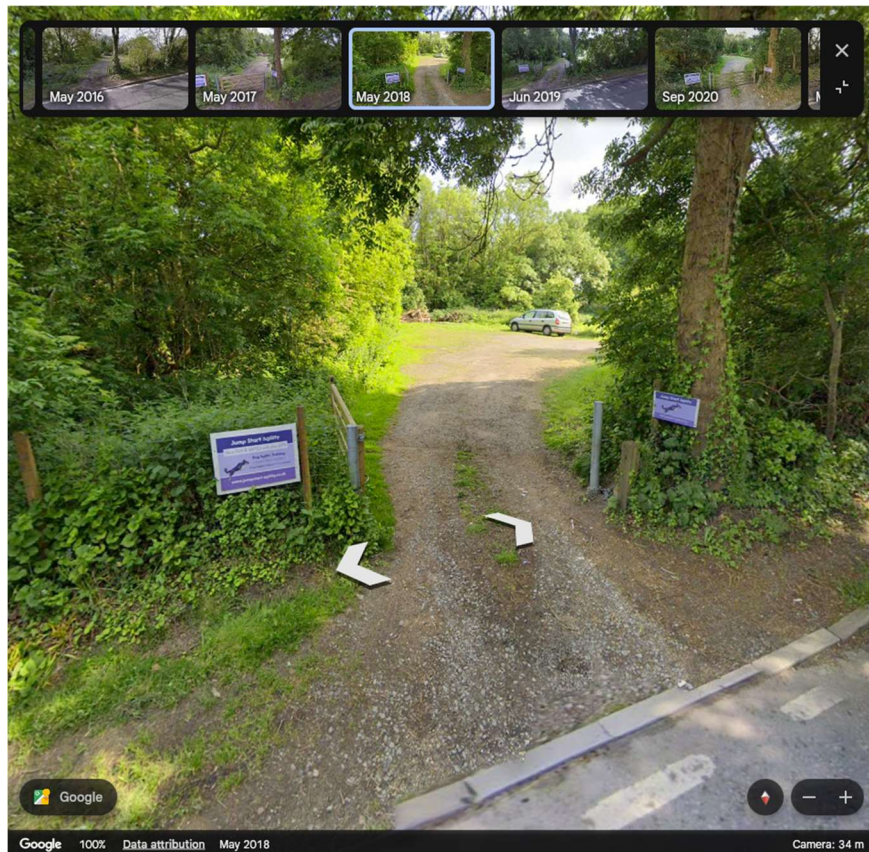
Historic image of entrance dated 2012 – Google street view



Historic image of entrance dated 2014 – Google street view



Historic image of entrance dated 2017 – Google street view



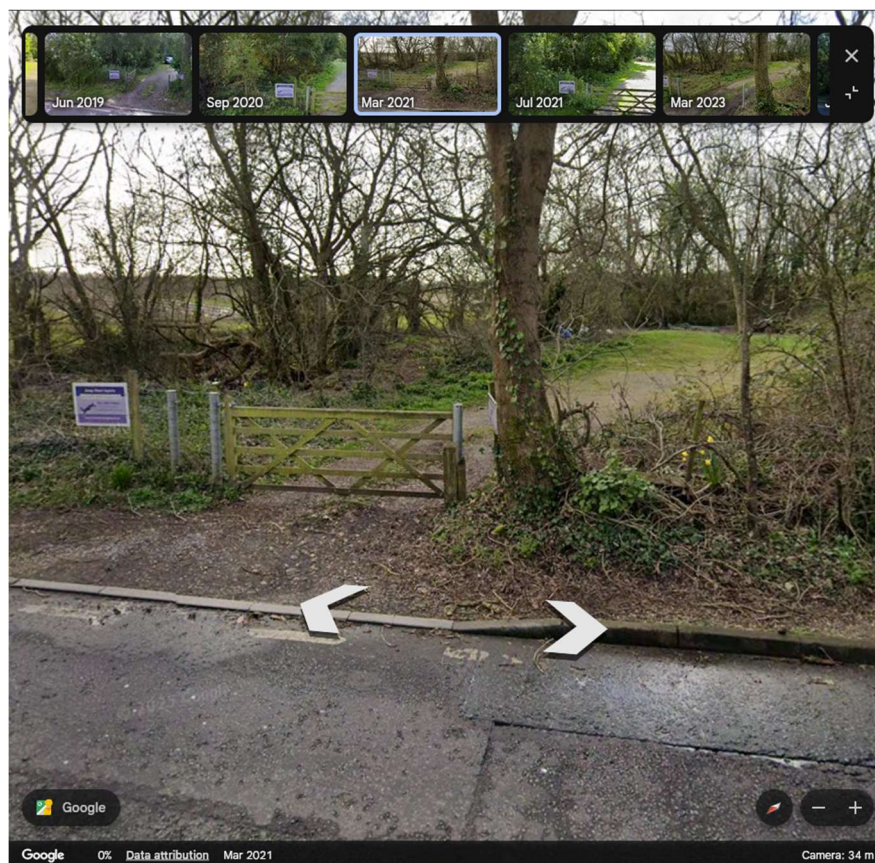
Historic image of entrance dated 2018 – Google street view



Historic image of entrance dated 2019 – Google street view



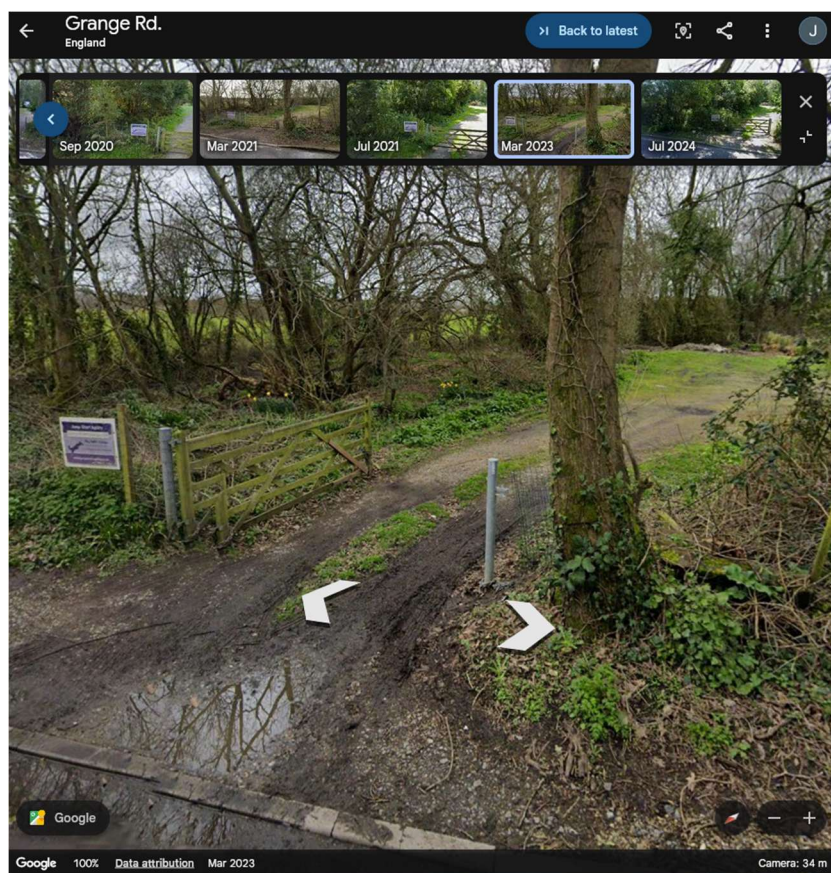
Historic image of entrance dated 2020 – Google street view



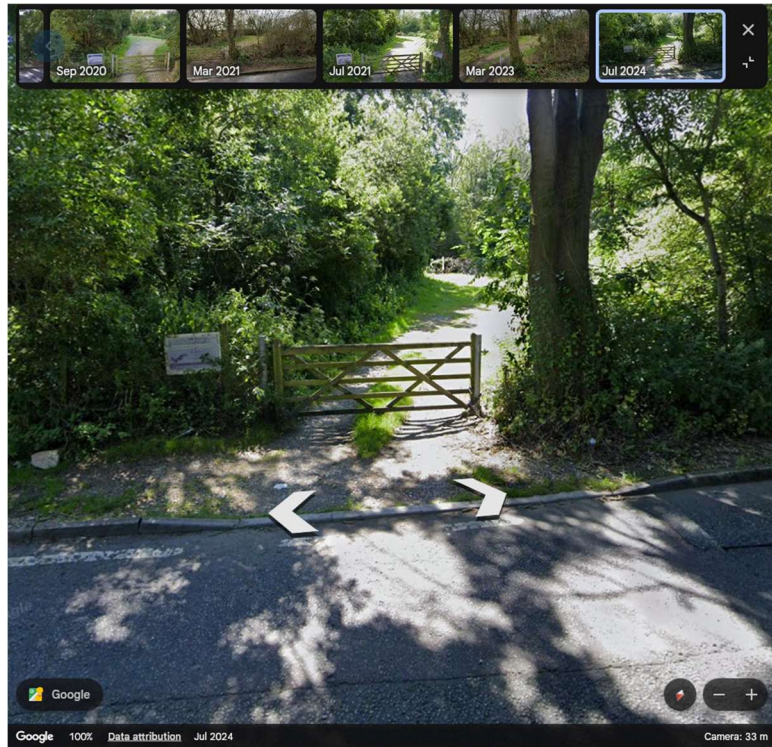
Historic image of entrance dated March 2021 – Google street view



Historic image of entrance dated June 2021 – Google street view



Historic image of entrance dated 2023 – Google street view



Historic image of entrance dated 2024 – Google street view

Appendix 2: Application documents for application F/14/74042

Application documents including Application Form, Plans, and the delegated report accompany this application with references as follows:

APPENDIX 2 PLANNING HISTORY - F1474042 - Officers report

APPENDIX 2 PLANNING HISTORY - F1474042 - Submitted plans

APPENDIX 2 PLANNING HISTORY - F1474042 - Application form