

# FAREHAM

## BOROUGH COUNCIL

### Report to the Executive for Decision 09 July 2018

<b>Portfolio:</b>	Planning and Development
<b>Subject:</b>	<b>Proposed Revisions to the Council's Policy on the Publicity of Planning Applications</b>
<b>Report of:</b>	Director of Planning and Regulation
<b>Corporate Priorities:</b>	Protect and Enhance the Environment Strong, Safe, Inclusive and Health Communities A Dynamic, Prudent and Progressive Council

**Purpose:**

This report proposes various changes to the Council's current policy on publicising applications received for planning permission and other types of consent.

**Executive summary:**

Officers from the Council's Development Management service have been reviewing whether the current neighbour notification policy dating from 2003 results in an appropriate level of public notification on planning applications and other types of planning submissions.

The review follows the recent changes made to how planning applications are dealt with by Development Management following the work with Vanguard Consulting.

Under the current neighbour notification policy, the main methods of publicising planning applications include letters sent directly to adjacent properties, the display of site notices and press notices placed in a local newspaper.

Officers consider that the current neighbour notification policy should be replaced and rebranded as the 'Community Notification Scheme (CNS)'.

The new CNS would provide Officers with greater flexibility to decide who to notify about planning and similar applications.

The proposed approach would lead to more residents and other interested parties being notified about major applications than required under the Council's currently approved policy. There would be a reduction in the requirement to notify on some minor applications (particularly applications for advertisements, works to listed buildings and limited works to protected trees).

The proposed changes would help to increase awareness of larger applications such as those for major residential development. The changes would also increase the speed with which Officers can decide minor proposals which are typically non-controversial and receive very little, if any, response from residents or other interested parties.

**Recommendation:**

It is recommended that the Executive:

- (a) approves the Community Notification Scheme as set out within Appendix B to this report;
- (b) agrees that this Scheme comes into effect from Monday 23<sup>rd</sup> July 2018; and
- (c) agrees that any representations received without a valid full name and postal address being provided, will not be taken into account when determining planning or similar applications.

**Reason:**

In the interests of increasing the effectiveness and efficiency of notification of planning and other similar applications.

**Cost of proposals:**

None

**APPENDICES:**

**Appendix A:** CURRENT NEIGHBOUR NOTIFICATION POLICY

**Appendix B:** PROPOSED COMMUNITY NOTIFICATION SCHEME (CNS)

**Appendices C1, C2, D, E1 & E2:** EXAMPLES OF CURRENT AND PROPOSED SCHEMES IN PRACTICE

**Background papers:** None

# FAREHAM

## BOROUGH COUNCIL

### Executive Briefing Paper

<b>Date:</b>	09 July 2018
<b>Subject:</b>	Proposed Revisions to the Council's Policy on the Publicity of Planning Applications
<b>Briefing by:</b>	Director of Planning and Regulation
<b>Portfolio:</b>	Planning and Development

#### INTRODUCTION

1. Officers have been reviewing whether the neighbour notification policy dating from 2003 results in an appropriate level of public notification on planning applications.
2. The review follows the recent changes made to how planning applications are dealt with by the Development Management service following the work with Vanguard Consulting.
3. A summary of the current neighbour notification policy can be found below in Appendix A at the end of this report. Under the current policy the main methods of publicising planning applications include consultation letters sent directly to adjacent properties, the display of site notices and press notices placed in a local newspaper.
4. Officers consider that the current neighbour notification policy should be replaced and rebranded as the 'Community Notification Scheme (CNS)'. A proposed CNS can be found at Appendix B. This report discusses the main changes to the policy.

#### GENERAL PUBLICITY CARRIED OUT FOR ALL APPLICATIONS

5. Applications of all types are included on a weekly list published every Monday. The list contains details of all applications received during the previous week and is published online on the Council's website. A link to the list is also circulated by email to Members and other interested parties every Monday morning.
6. Full details of all applications received are published online on the Council's website. All applications are published online regardless of whether the application is subject to a formal period during which third party comments can be submitted or not. Where this is the case comments on an application can be submitted through the website provided the application has not already been determined.

## **PUBLICISING MAJOR PLANNING APPLICATIONS**

7. Under the current neighbour notification policy, when publicising major planning applications Officers are obliged to display site notices, place a notice in the local newspaper and send letters directly to neighbouring properties which abut application sites (and other land within the control of the applicant). There is no requirement to write to other neighbours living nearby if their property is not adjacent to the application site.
8. One particularly important element of the Vanguard method of working is the emphasis on keeping local residents informed throughout the planning application process. At the outset it is acknowledged that, for major planning applications, it may often be appropriate to write to a far wider number of residents and other interested parties than just those whose properties abut the application site. This is in recognition that planning applications of a more significant scale can often impact on the wider community in a range of different ways. In light of the Vanguard way of working, Officers have already had regard to this and have begun to send notification letters to residents other than those immediately adjacent to the site over and above the requirements of the current notification policy. In the revised notification scheme it is proposed that Officers continue to consider on a case by case basis whether additional publicity is required in this manner and allow Officers to use their discretion to determine to whom notification letters should be sent.
9. An example of these proposed changes in practice can be found at Appendix C1 and C2. This example uses the site of the proposed development of up to 120 dwellings on land to the north of Cranleigh Road (planning reference P/15/0260/OA).
10. Appendix C1 shows those adjacent properties that would be notified if the current notification policy was strictly followed. Appendix C2 meanwhile shows a more appropriate coverage of the local area within which households could be notified of this major application if Officers used their discretion under the revised proposed notification scheme. It should be noted that in this particular case this wider reaching distribution of letters was carried out by Officers notwithstanding the current notification policy requirements.

## **PUBLICISING MINOR PLANNING APPLICATIONS**

11. Through the revised notification scheme it is proposed that householder applications would be publicised in a similar manner as at present. There would be some minor changes to the requirement to write to adjacent neighbouring properties, such as for example notifying properties on the opposite side of a road only when a proposed development would affect the front of the application property and not the rear.
12. To illustrate this Appendix D shows a site in Newtown Road, Warsash. It identifies those adjacent properties that, under the current notification policy, Officers would be obliged to notify directly by letter. Under the proposed notification scheme any proposals for development to the rear of the house, such as a rear extension or garden outbuilding, would not trigger the requirement to notify those houses located on the opposite side of the road.

## **PUBLICISING APPLICATIONS FOR CONSENT TO DISPLAY ADVERTISEMENTS**

13. The current neighbour notification policy is generally consistent with the requirements placed on local authorities when publicising planning applications as set out in the Town & Country Planning (Development Procedure Order) 2015 (as amended). However, the policy goes further by committing the Council to carry out additional publicity over and above that required by legislation with regards other types of submissions.
14. For example, there is no statutory obligation for the local planning authorities to send letters, display site notices or place press notices in relation to applications for consent to display advertisements. This Council's current neighbour notification policy however states that those types of proposals will be publicised in the same way as other applications for planning permission and so currently that is what occurs.
15. In comparison to major planning applications the level of publicity required by the current policy for applications for advertisement consent is considered to be excessive in many cases. These applications typically do not generate much interest in terms of the numbers of comments received in relation to them. They could be dealt with quicker and more efficiently, without delaying matters for local residents or businesses, if the level of publicity required to be carried out was reduced. It is therefore proposed that no publicity is carried out in relation to applications for advertisement consent except in specific circumstances. These include where the advertisement is to be displayed in a conservation area or in a residential neighbourhood, in which case publicity would be carried out at the discretion of the Officer handling the application.
16. An example of these proposed changes is shown at Appendix E1 and E2. The site is a warehouse within Fareham Industrial Estate where consent was sought to display two non-illuminated signs. Appendix E1 shows that, under the current notification policy, letters were sent to four adjacent industrial premises on the estate. No representations were received in response to this notification. Appendix E2 illustrates that, under the proposed notification scheme, no letters would be sent out in this particular set of circumstances.

## **PUBLICISING APPLICATIONS FOR LISTED BUILDING CONSENT**

17. As for applications for advertisement consent, applications for listed building consent are currently publicised at a level in excess of what is required by the 2015 Order and also what is considered necessary by Officers. For listed building consent applications therefore, whilst site notices and press notices would still be displayed, it is proposed that letters would only be sent to neighbours at the case officer's discretion. For applications proposing works affecting only the interior of a Grade II (unstarred) listed building no publicity would be required under the new notification scheme.

## **PUBLICISING APPLICATIONS FOR CERTIFICATES OF LAWFULNESS FOR EXISTING USES OR DEVELOPMENT**

18. Applications for a Certificate of Lawfulness for an Existing Use or Development are used to establish whether existing uses of land or building works are lawful. Many applications are submitted on the basis that, due to the passage of time, the use or works are now lawful.

19. Currently no publicity is required by statute or the Council's neighbour notification policy for applications seeking a certificate of lawfulness for existing uses or development. However, government guidance suggests that it is reasonable for a local planning authority to seek evidence from third parties such as neighbours if they believe they may possess relevant information about the content of a specific application. With that in mind it is proposed that for such applications letters will be sent to neighbours and/or a site notice will be displayed at the Officer's discretion. For example, neighbours may be able to confirm or counter an applicant's claims that a use has already been carried out for a certain period of time or that building works were completed by a particular date.
20. Applications for a Certificate of Lawfulness for a Proposed Use or Development are used to establish whether uses or works yet to be carried out would be lawful and therefore would not require planning permission from the Council. Such applications deal with whether the development is lawful having regards to the facts of the case, and views expressed by third parties on the planning merits cannot be taken into account when being determined.
21. Under the new notification scheme there would still be no requirement for publicity to be carried out for applications relating to lawful development certificates for proposed development.

### **PUBLICISING APPLICATIONS FOR CONSENT FOR WORKS TO PROTECTED TREES**

22. The Council currently writes to adjacent neighbours and displays site notices to publicise applications for consent to carry out works to trees covered by tree preservation orders (TPOs) or trees within conservation areas. There is no statutory requirement for the local authority to carry out any publicity for these types of applications.
23. Officers typically receive very few comments in response to this publicity for tree works applications. Most of the comments received relate to proposals to fell trees or for works to significantly reduce mature trees.
24. The new proposed notification scheme would lift the requirement to write to neighbours and display site notices for every application. Instead it proposes that Officers only be required to do so when a proposal involves the felling of a tree covered by a TPO or within a conservation area. Applications for lesser works such as the removal of tree limbs, branches or reduction works would not be publicised unless Officers considered the works may generate sufficient interest from local residents to warrant it being subject to a period of public consultation, for example by the nature of the scale of the works or the prominent or sensitive location of the trees involved. Applications for works not involving the felling of trees would therefore only be subject to publicity at the discretion of Officers.
25. The proposed changes would reduce the amount of time and resource spent on notifying residents on proposals which are not likely to generate any response. It would also mean that, where no publicity is carried out and there is no period for comment to delay the progress of the application, decisions on applications could be issued much quicker than at present. At the same time, the ability for residents to have their say on those proposals for more significant works to trees, such as felling and in some cases reduction of trees, would still remain thereby ensuring that those comments can be taken into account when determining such applications.

## **LENGTH OF PUBLICITY PERIOD**

26. The 2015 Order requires the publicity period for applications to last no less than 21 days. If representations are received after the 21-day period has ended, following adoption of Vanguard approach Officers are accepting and taking into account those comments in the same way as they would do any others and if possible to do so, in other words if the application has not already been determined. The site notices, press notices and letters used to publicise applications encourage anyone wishing to do so to comment by a certain date (normally 21 days from the date of the notice being displayed or letter being sent) to ensure their comments are taken into account. On occasion Officers can set this date further in the future to provide a longer period of consultation, for example 28 days or even more. A longer period for comment is often given for example when that period spans the Christmas holiday season or school summer holidays however this is at the discretion of Officers to determine when appropriate to do so. There are no suggested changes to this current practice within the new notification scheme.
27. Under the current notification policy, amendments to undetermined applications which are significant should be re-advertised for an additional period of 14 days. The proposed scheme does not stipulate how long a period of re-consultation should be or to whom further notification would be sent. It would be at the discretion of Officers as to how long to give for any further comments to be made before a decision could be made or who to write to based on the content of the amendments and the nature of any comments received in the initial round of consultation.

## **COMMENTS RECEIVED IN RESPONSE TO PUBLICITY**

28. Anyone can comment on an application which is subject to public consultation. Whilst there is no obligation to do so, in the interests of transparency the Council publishes all comments received online on its website.
29. The new notification scheme proposes that, in future, any comments received without the sender's full name and postal address will not be taken into account. This is to ensure that comments received are genuinely made by interested parties and that multiple representations by the same party are noted. Doing so will enable the decision makers to determine what weight to give to those comments and the issues raised.
30. When comments are received without a full name and postal address being provided, for example comments submitted online or by email, Officers will contact the sender to request those details and explain that without them their representation will not be considered by this Council. Letter templates, site notices and press notices will also be amended to make respondents aware of this requirement.
31. As referred to above, current practice is to take into account any comments made about an application which are received after the publicity period has ended if the application has not already been decided. This way of working is proposed to continue under the new notification scheme.

## **RISK ASSESSMENT**

32. There are no significant risk considerations in relation to this report

## **CONCLUSION**

33. The current neighbour notification policy used by the Council, whilst consistent in terms of the minimum statutory requirements, is considered inadequate in relation to the level of publicity required for major planning applications and unnecessarily excessive in regard to more minor types of applications.
34. To address this imbalance it is proposed to introduce a new notification scheme which allows Officers more flexibility to notify neighbouring properties where considered appropriate to do so. As a result it is expected that there will be increased awareness by residents of proposals for major development and how they can participate in the planning process. At the same time a reduction in the requirement to notify for minor applications (including applications for advertisements, works to listed buildings and protected trees) would likely increase the speed and efficiency in determining those proposals which are typically non-controversial and receive very little if any response from members of the public.
35. The proposed scheme clarifies how long the Council will allow for comments to be made on applications and how it will re-advertise planning applications at Officers' discretion if amendments are made by the applicant. It also sets out how representations received from persons who do not divulge their full name and address will not be taken into account.

### **Enquiries:**

For further information on this report please contact Lee Smith, Head of Development Management (Ext. 4427).



## APPENDIX A

### CURRENT NEIGHBOUR NOTIFICATION POLICY

Type of Proposed Development	Current Council Practice
Planning application accompanied by an environmental statement, or Departure from development plan, or Affecting public right of way	Advertise in local newspaper and Site Notice and Letters to neighbours
Major development	Advertise in local newspaper and Site Notice and letters to neighbours
Minor development/Other development (including Householder)	Letters to neighbours and/or site notice
Amendments to undetermined applications	Same as original (14 day) if significant
Applications for Listed Building consent or Development affecting the character or appearance of a conservation area	Advertise in local newspaper and Site Notice and/or Letters to neighbours
Advertisement Consent applications	Site Notice and/or Letters to neighbours
Tree Preservation Order applications	Site Notice and/or Letters to neighbours
Applications for prior approval of details of certain development permitted by the General Development Procedure Order: a) demolition of houses; b) agriculture/forestry; c) telecommunications in conservation areas; d) telecom works.	a); b); c): site notice posted by developer; d) site notices (14 days) and/or Letters to neighbours

#### Footnotes:

Site Notices are only to be used (other than where a statutory requirement) where neighbours cannot be identified, where the nature of development requires wider publicity or at the discretion of the planning officer.

Letters will only be sent to Neighbours where the property abuts the red and blue lines of ownership.

Definition of Neighbours in relation to notification across a footpath, greenway or road: -

Where a footpath, greenway or road falls within a distance of 4 metres measured from the boundary of the land or the boundary of the unit for which the development is proposed, the width of such footpath, greenway or road shall be disregarded in calculating the specified distance unless :-

- the road is more than 20 metres in width;
- the proposal involves development solely to the rear of the property and there is no road to the rear.

## APPENDIX B

### PROPOSED COMMUNITY NOTIFICATION SCHEME (CNS)

Type of Proposed Development	Proposed Council Practice
<ul style="list-style-type: none"> <li>Planning application accompanied by an environmental statement, or</li> <li>Departure from development plan, or</li> <li>Affecting public right of way</li> </ul>	<ul style="list-style-type: none"> <li><b>Advertise in local newspaper; and</b></li> <li><b>Site Notice; and</b></li> <li><b>Letters to adjoining neighbours</b> and further afield at the case officer's discretion</li> </ul>
<ul style="list-style-type: none"> <li>Major Planning application</li> </ul>	<ul style="list-style-type: none"> <li><b>Advertise in local newspaper; and</b></li> <li><b>Site Notice; and</b></li> <li><b>Letters to adjoining neighbours</b> and further afield at the case officer's discretion</li> </ul>
<ul style="list-style-type: none"> <li>Minor Planning Applications</li> <li>Householder applications</li> </ul>	<ul style="list-style-type: none"> <li><b>Site Notice; and/or</b></li> <li><b>Letters to adjoining neighbours</b> and in some instances neighbours on opposite side of road*</li> </ul>
<ul style="list-style-type: none"> <li>Re-Submissions within one year of a decision</li> </ul>	<ul style="list-style-type: none"> <li>As required by this document according to the type/nature of the application; and</li> <li>Letters to all addresses of persons who commented on the previous application</li> </ul>
<ul style="list-style-type: none"> <li>Amendments to undetermined applications</li> </ul>	<p>Only if the changes are significant in the view of the case officer:</p> <ul style="list-style-type: none"> <li>Re-publicise by letter/email only at the case officer's discretion</li> </ul>
<ul style="list-style-type: none"> <li>Applications for Listed Building Consent (except applications for works affecting only the interior of a Grade II (unstarred) listed building)</li> </ul>	<ul style="list-style-type: none"> <li><b>Advertise in local newspaper; and</b></li> <li><b>Site Notice</b></li> <li>Letters to neighbours at the case officer's discretion</li> </ul>
<ul style="list-style-type: none"> <li>Applications for works affecting only the interior of a Grade II (unstarred) listed building)</li> </ul>	<ul style="list-style-type: none"> <li>No publicity to be undertaken</li> </ul>
<ul style="list-style-type: none"> <li>Applications affecting the character and appearance of a Conservation Area or the setting of a listed building</li> </ul>	<ul style="list-style-type: none"> <li><b>Advertise in local newspaper; and</b></li> <li><b>Site Notice</b></li> <li>Letters to neighbours depending on the nature of the application as above</li> </ul>
<ul style="list-style-type: none"> <li>Details pursuant to listed building consent conditions (except</li> </ul>	<ul style="list-style-type: none"> <li><b>Advertise in local newspaper; and</b></li> <li><b>Site Notice</b></li> </ul>

applications for works affecting only the interior of a Grade II (unstarred) listed building)	
<ul style="list-style-type: none"> <li>Advertisement Consent</li> </ul>	<ul style="list-style-type: none"> <li>No publicity unless:</li> <li>In a Conservation Area: <ul style="list-style-type: none"> <li>Site Notice; and</li> <li>Letters to neighbours to be sent at case officer's discretion</li> </ul> </li> <li>In an area with identifiable residential neighbours: <ul style="list-style-type: none"> <li>Letters to neighbours at case officer's discretion</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>Applications to carry out works to trees covered by tree preservation orders (TPOs) or within a conservation area</li> </ul>	<ul style="list-style-type: none"> <li>No publicity unless:</li> <li>Proposal involves felling of tree(s); or</li> <li>Other works at case officer's discretion: <ul style="list-style-type: none"> <li>Letters to neighbours and/or Site Notice</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>Proposed Lawful Development Certificates</li> </ul>	<ul style="list-style-type: none"> <li>No publicity to be undertaken</li> </ul>
<ul style="list-style-type: none"> <li>Existing Lawful Development Certificates</li> </ul>	<ul style="list-style-type: none"> <li>Letters to neighbours and /or Site Notice at case officer's discretion</li> </ul>
Applications for Prior Approval for developments permitted by the General Permitted Development Order 2015:	
<ul style="list-style-type: none"> <li>The Enlargement, Improvement or other alteration to a dwellinghouse (Part 1, Class A)</li> </ul>	<ul style="list-style-type: none"> <li><b>Letters to adjoining neighbours</b></li> </ul>
<ul style="list-style-type: none"> <li>Changes of Use (Part 3, Class C,J,M,N,O,P,Q,R,S,&amp;T)</li> </ul>	<ul style="list-style-type: none"> <li>Site Notice or letters to adjoining neighbours at case officer's discretion</li> </ul>
<ul style="list-style-type: none"> <li>Agricultural &amp; Forestry (Part 6, Class A,B &amp; E)</li> </ul>	<ul style="list-style-type: none"> <li>Site Notice; and</li> <li>letters at case officer's discretion</li> </ul>
<ul style="list-style-type: none"> <li>Heritage &amp; Demolition (Part 11, Class B)</li> </ul>	<ul style="list-style-type: none"> <li>Site Notice; and</li> <li>letters at case officer's discretion</li> </ul>
<ul style="list-style-type: none"> <li>Communications (Part 16, Class A)</li> </ul>	<ul style="list-style-type: none"> <li>Site Notice; and</li> <li>letters at case officer's discretion</li> </ul>

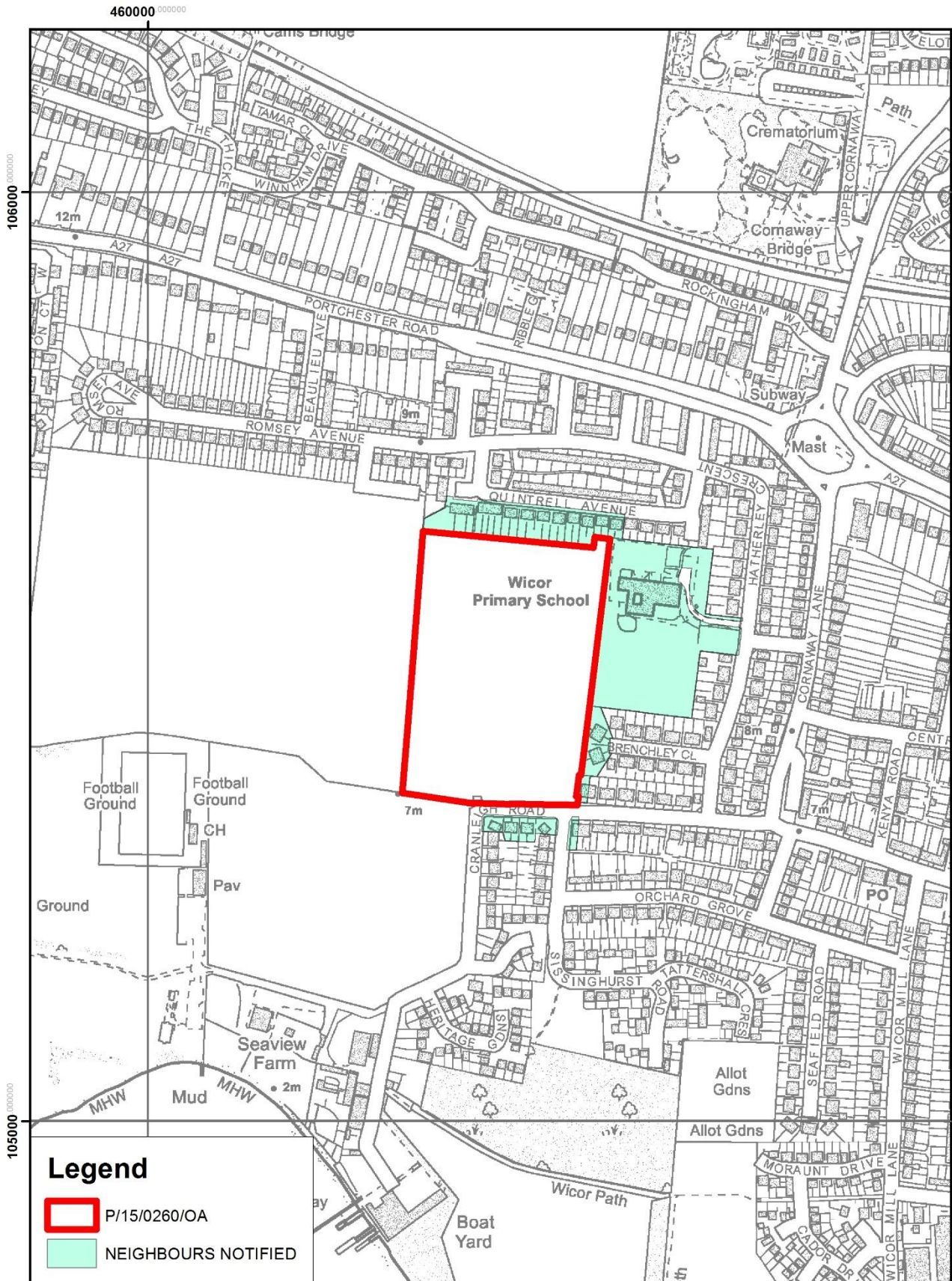
Footnotes:

Site Notices are to be used (other than where a statutory requirement) where neighbours cannot be identified, where the nature of development requires wider publicity or at the discretion of the planning officer.

\* For minor and household applications: where the proposal involves no change to the front or side elevations of a building or no development within the frontage of a building (for example, rear extensions or outbuildings in rear gardens only) there will be no requirement to send letters to properties lying across the opposite side of a street to the front of the application property.

**Wording in bold denotes a statutory requirement under the Town & Country Planning (Development Management Procedure) Order 2015, Listed Buildings and Conservation Areas Act 1990 or Listed Building and Conservation Areas Regulations 1990.**

# APPENDIX C1



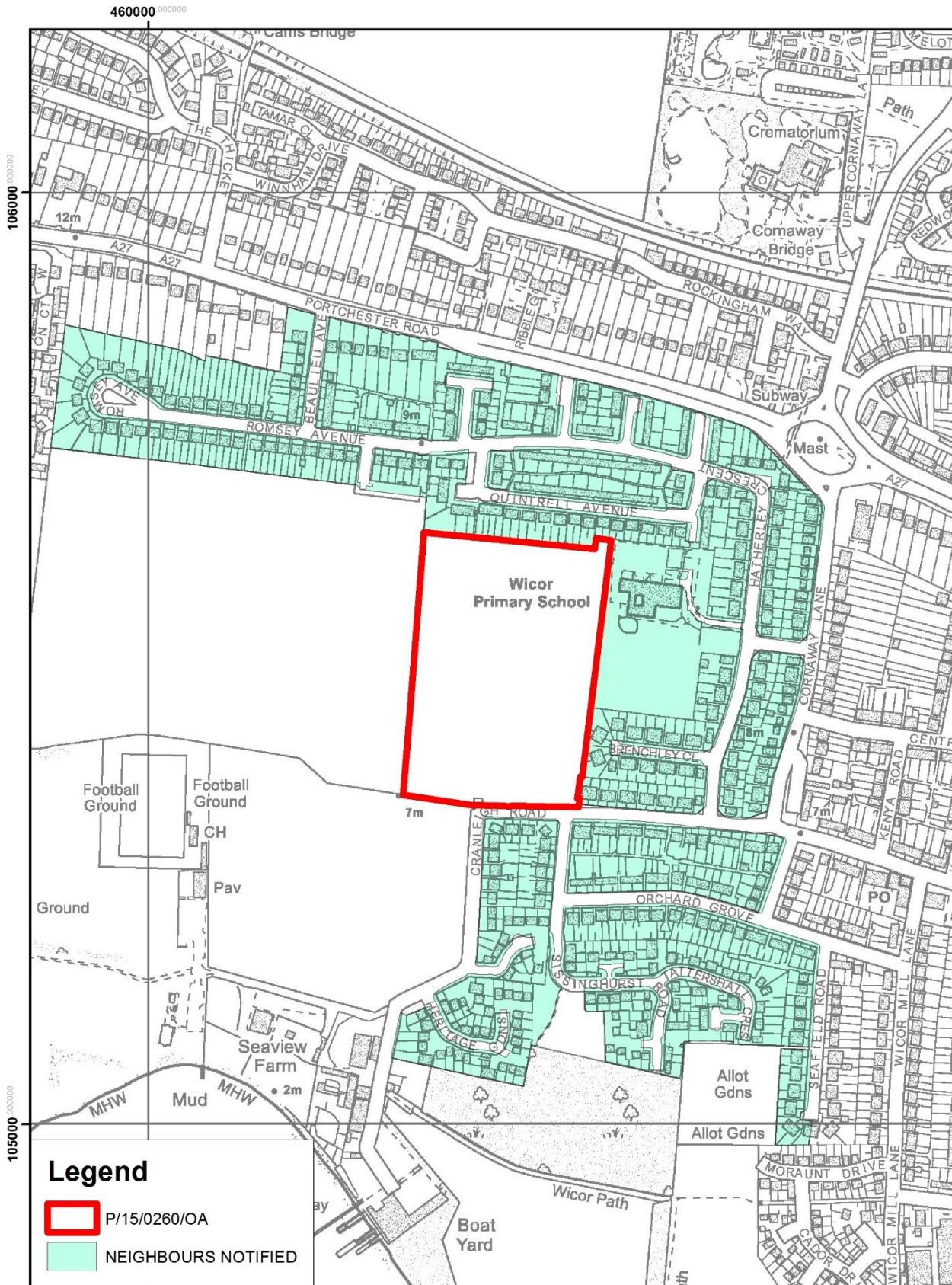
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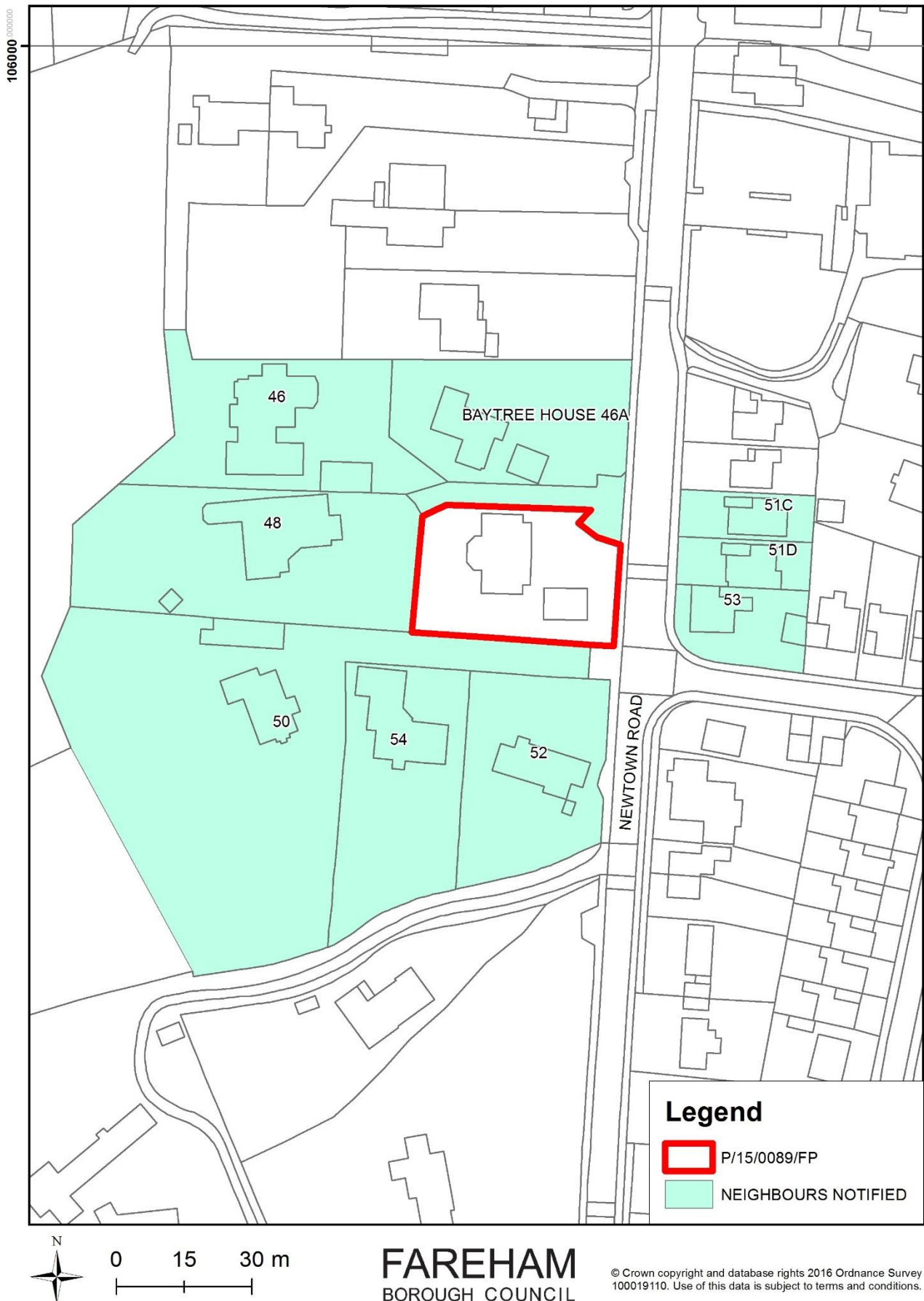
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## APPENDIX C2

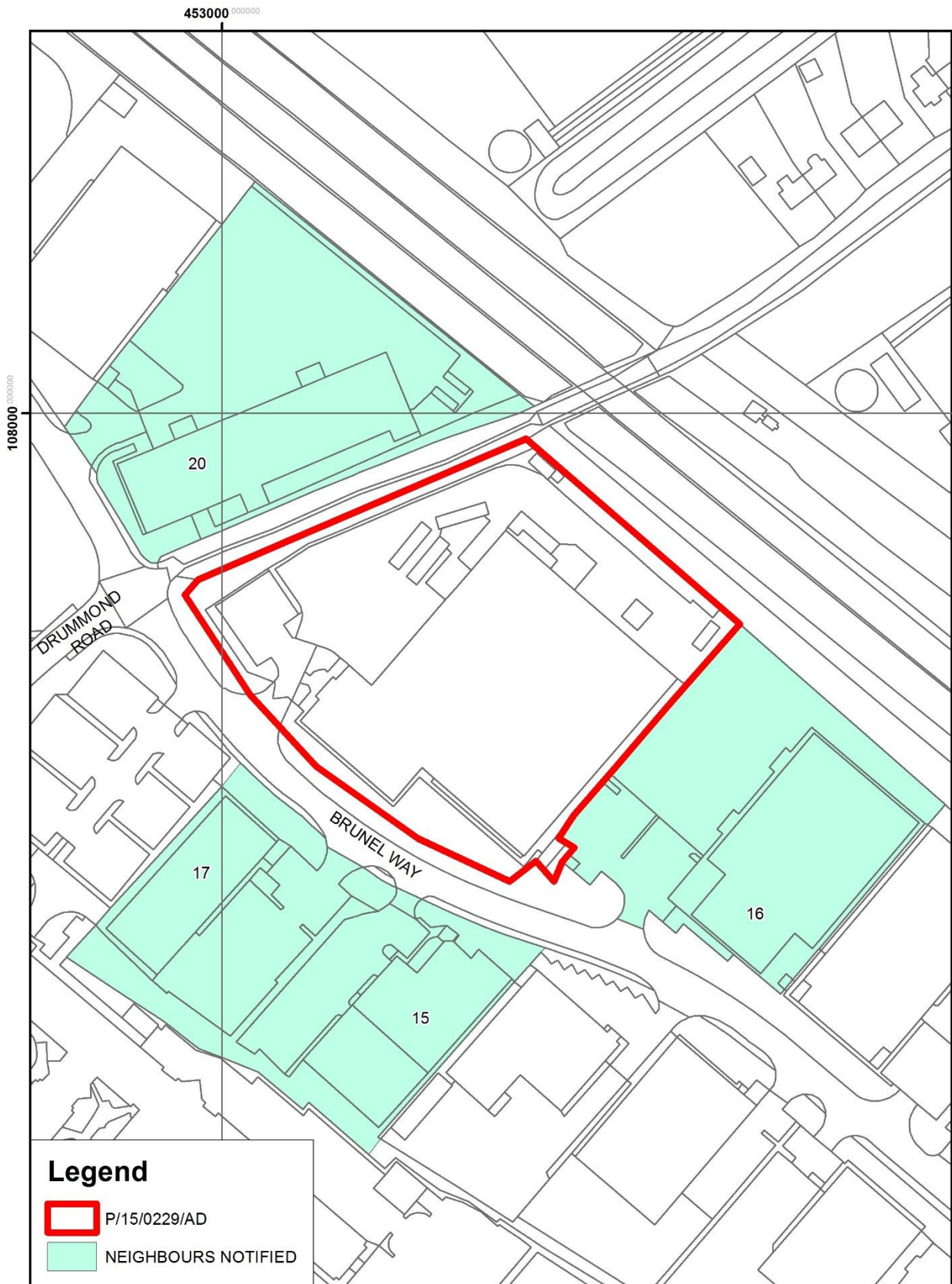


## APPENDIX D



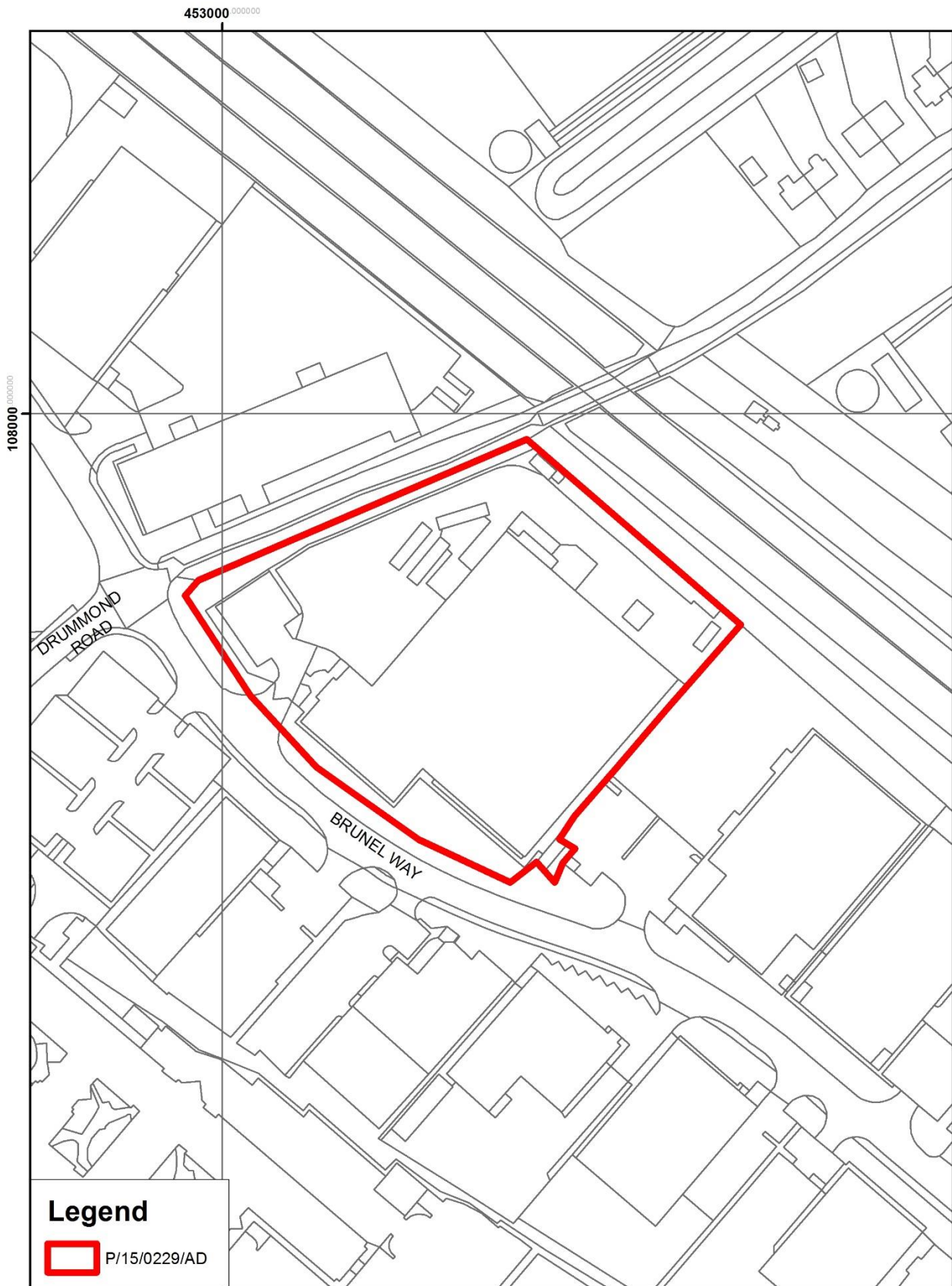


## APPENDIX E1





## APPENDIX E2



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