

PLANNING STATEMENT to accompany:

Lawful Development Certificate to confirm the mixed B8 general open storage use of the land for the parking and storage of vehicles, trailers and lorry bodies, the siting of storage containers and portable buildings and the storage of imported inert soils for more than 10 years.

Land to the East of Heath Place Business Centre, Heath Place, Bognor Regis, West Sussex, PO22 9SL

Executive summary

An Enforcement Notice (EN) was issued Dated: 8th November 2022. The Notice was not appealed.

There is no barrier in planning law to subsequently making a Lawful Development Certificate for the period 10 years or more prior to the service of the EN.

The EN allegation was as follows:

THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

Without planning permission, the use of the land for the parking and storage of vehicles, trailers and lorry bodies, the siting of storage containers and portable buildings and the storage of imported waste. The creation of earth bunds along the northern and eastern boundaries and the laying of hardstanding.

The Notice referred to the land shaded red. There is no explanation as to why the areas circled blue were excluded. To do so has misconstrued the planning unit.



Above – The Enforcement Notice plan

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Below - The B8 open storage planning unit subject of the application.



In planning law, the case of *Burdle v Secretary of State for the Environment* (1972) All E.R. 240 gives guidance as to how a planning unit (or in this case a separate planning unit) can be recognised. In a well-known passage in that case, Bridge J gave the following guidance on how to determine the appropriate planning unit:

“First, that whenever it is possible to recognise a single main purpose of the occupier’s use of his land to which secondary activities are incidental or ancillary, the whole planning unit should be considered.... But, secondly, it may equally be apt to consider the entire unit of occupation even though the occupier carries on a variety of activities and it is not possible to say that one is incidental or ancillary to another. This is well settled in the case of a composite use where the component activities fluctuate in their intensity from time to time but the different activities are not confined within separate and physical distinct areas of land. Thirdly, however, it may frequently occur that within a single unit of occupation two or more physically separate and distinct areas are occupied for unrelated purposes. In such a case each area used for a different main purpose (together with its incidental and ancillary activities) ought to be considered as a separate planning unit”

The evidence confirms that **the B8 general open storage use for more than 10 years** falls **entirely within the first proposition** on the basis this has remained the main purpose of the use of the site for more than 10 years and that these uses are ongoing.

H.M. LAND REGISTRY		TITLE NUMBER WSX 156352	
ORDNANCE SURVEY PLAN REFERENCE	509301	Scale 1:1000	
COUNTY	WEST SUSSEX	DISTRICT	ARUN
		© Crown Copyright	



Above – The Land Registry title plan showing the land as a single site

Below- The latest aerial photo below showing the site as a single site



The applicant confirms, "attached the land registry as you can see the Arun District

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Council **have made their own red line as the containers and car storage and general storage was clearly used on this land for over 15 years.** I also know this because when the land was for sale the ND autos work shop was told by the owners they had to start moving there containers of the land and car storing because the land was being sold.

I actually ended up buying ND autos work shop and the land together which means they did not need to move containers or move there cars as we become the new owner of the land and ND autos work shop”.

This statement forms the evidence for a **Certificate of Lawfulness of Existing Use** to be submitted to Arun District Council. This statement has been put together using the evidence that forms the planning history and following conversations with the applicant to confirm **how they have continued to use the site for B8 open storage.**

To be precise and remove any ambiguity in the definition of the area of land or ‘planning unit’ this Certificate of Lawfulness relates to the ‘red line area’ of the application used for commercial storage purposes.

As is clear from the historic aerial photos the yard area has always been used for the B8 open storage purposes outlined. **There is no evidence to delineate a smaller planning unit.**

To be successful the evidence needs to show that the site has been in the claim use for more than 10 years prior to the service of the EN on 8th November 2022.

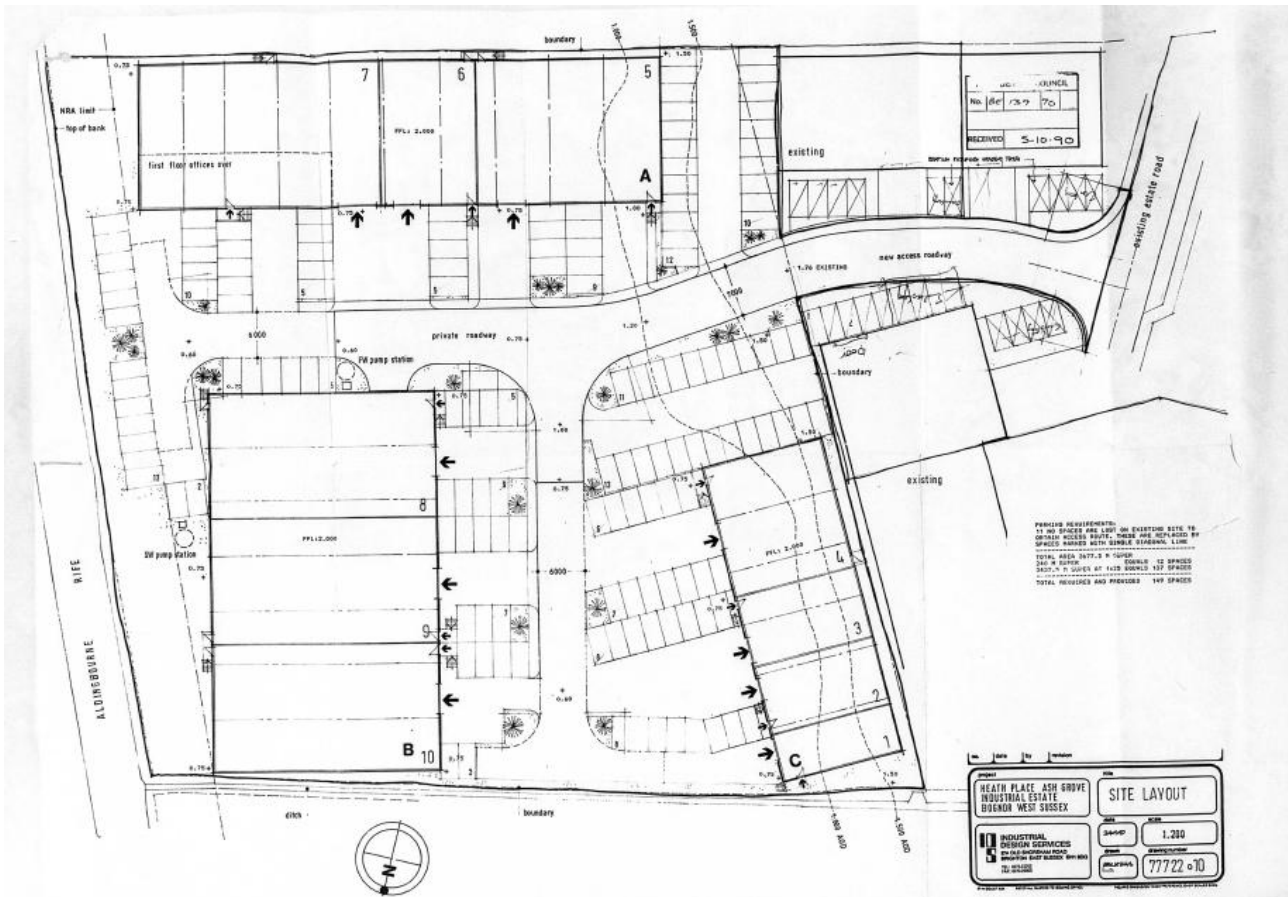
The applicable dates are therefore from prior to 8 November 2012 to November 2022.

The starting point is the planning history. Permission was granted as described below.

BE/56/95	Renewal of unimplemented planning permission BE/139/90 for erection of 3701.00 sq.m. B1 Class Units, together with parking for 149 cars.
	Land east of Heath Place Ash Grove Industrial Park Bersted

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COMMENT – The Council accepted a commercial use for the site. To this end the reasons for serving the Notice in italics below, particularly 4.4, contradict the approved plan above which shows large areas for parking.

4. REASONS FOR ISSUING THIS NOTICE

4.1 When considering any application for development the Council will have regard to the following aspects:

4.2 1. Character

Make the best possible use of the available land by reflecting or improving upon the character of the site and the surrounding area, in terms of its scale, massing, aspect, siting, layout, density, building materials (colour, texture), landscaping, and design features craftsmanship and hard and soft landscaping to reflect the local area.

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4.3 The engineering operations of the bunds.

The bunds have resulted in a negative visual impact on the amenity of the area, as well as displacing surface water run-off, increasing flood risk to neighbouring properties. As such the development would conflict with policies C - SP1, W - DM2, QE - SP1 and QE - DM4 of the Arun Local Plan 2011 - 2031 and paragraphs 134, 159, 160 and 167 of the National Planning Policy Framework (NPPF), 2021.

ENF/159/22

4.4 The hardstanding and associated parking and storage of vehicles.

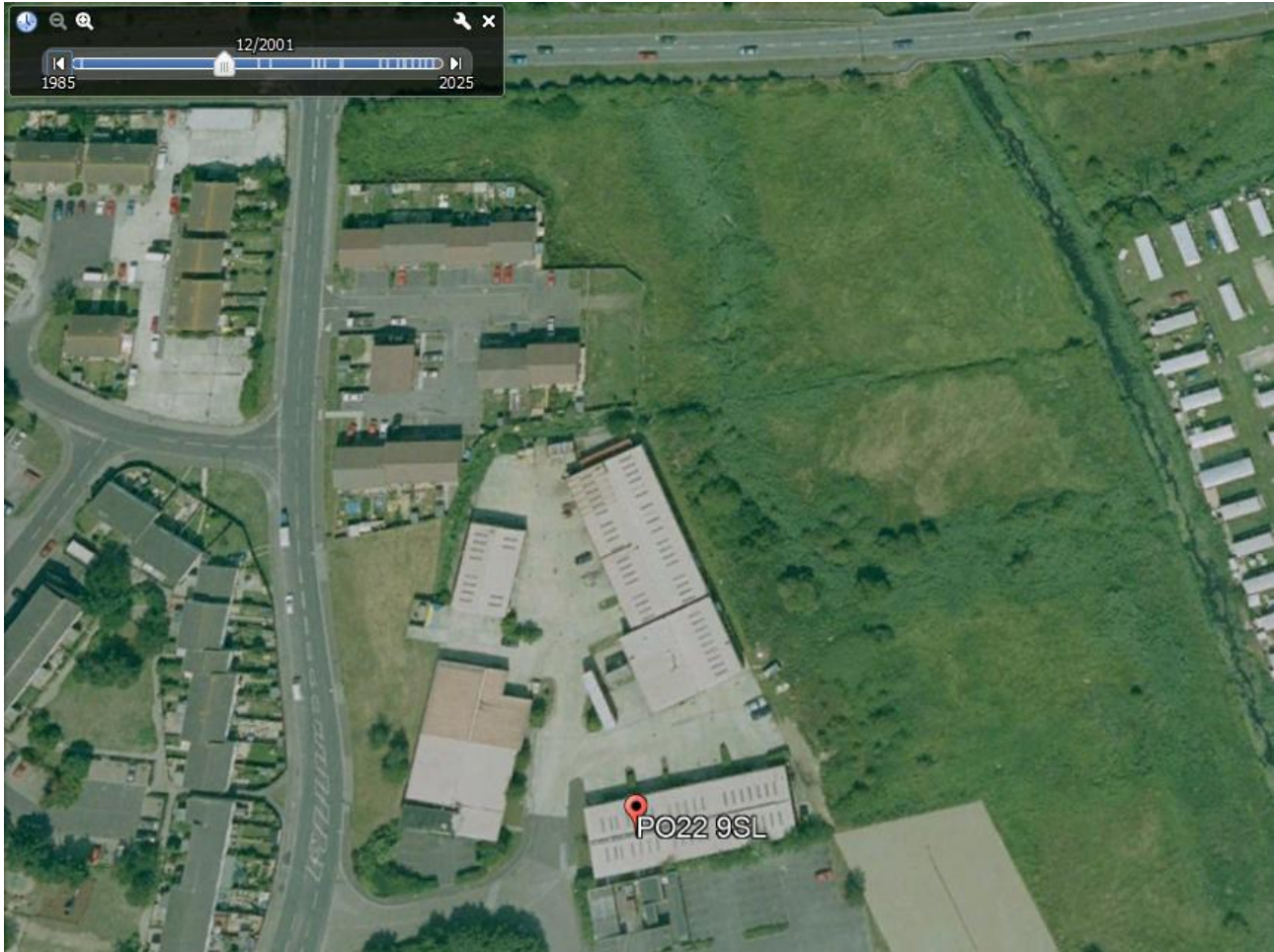
The hardstanding and parking and storage of vehicles, trailers and lorry bodies has introduced an alien and incongruous form of development within an open amenity space to the detriment of visual amenity and the character and appearance of the landscape. The industrial estate has been designed to incorporate the parking of vehicles within the existing hardstanding areas to the front and side and to retain the amenity space at the rear as a natural gap between the industrial estate and the caravan park to the east. The encroachment of which results in material harm to the landscape setting of the area, contrary to policy D DM1 of the Arun Local Plan 2011 - 2031.

Evidential submissions.

Analysing the historic aerial photos below it is clear to see the mixed B8 general open storage use of the land for the parking and storage of vehicles, trailers and lorry bodies (circled yellow on each aerial photo), the siting of storage containers and portable buildings (circled red on each aerial photo), and the storage of imported inert soils (circled green on each aerial photo), for more than 10 years.

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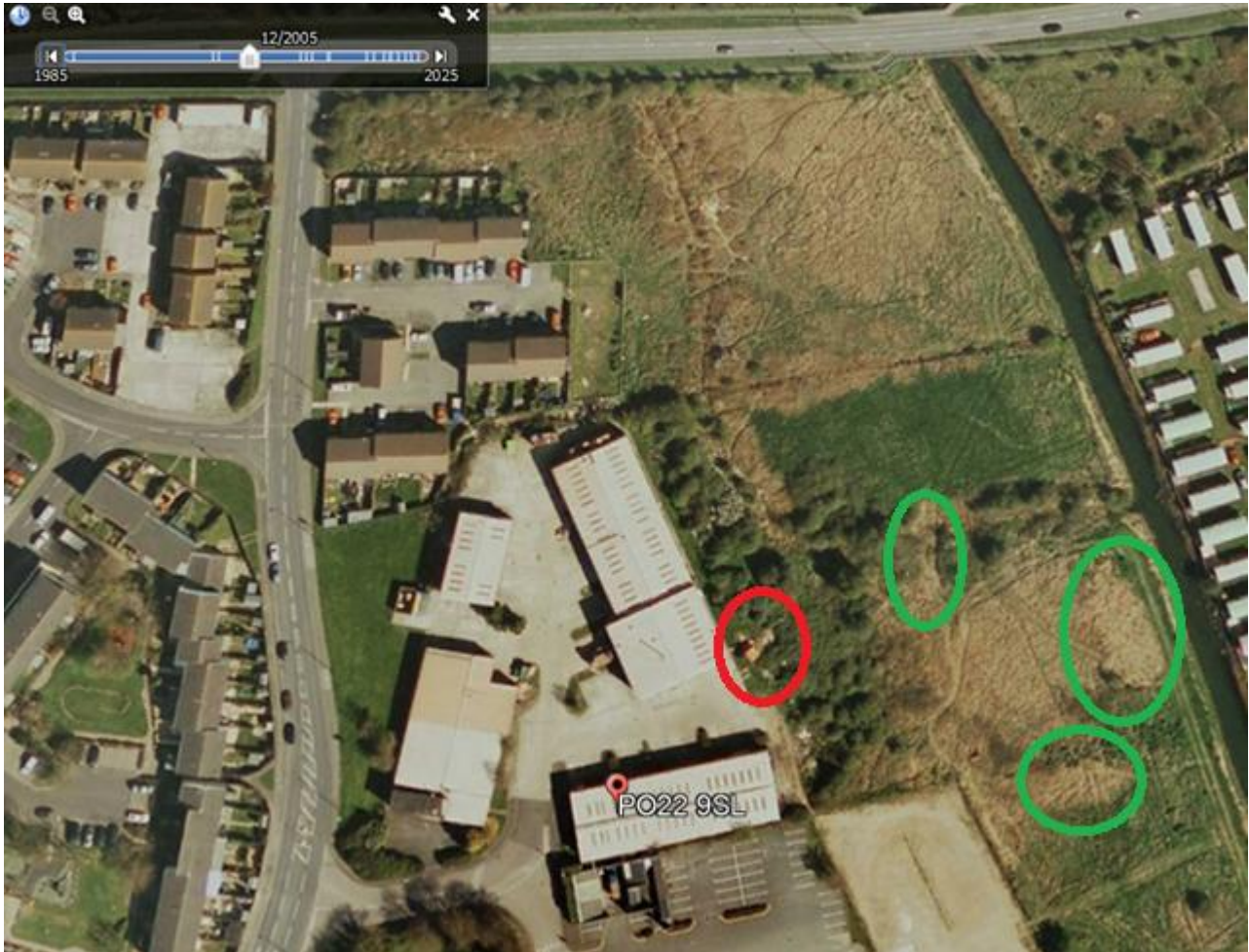
PROwe Planning Solutions, [REDACTED]



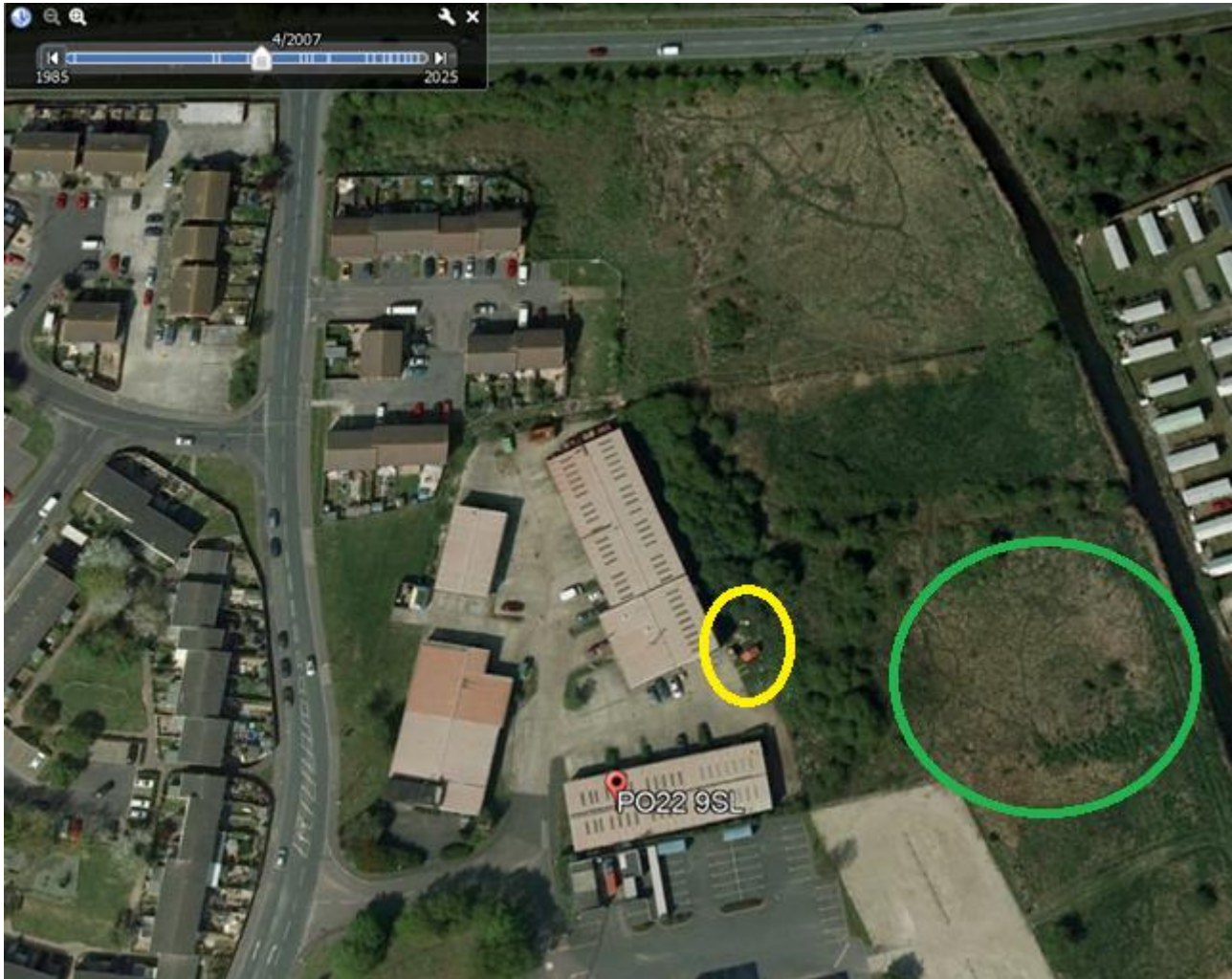
Baseline position – Aerial photo from 2001. Comparing this aerial photo to the subsequent ones it is clear to see how land levels arising from the importation and storage of inert soils has changed. Being inert it is quick to green over; nonetheless it is clear to seeing how the use and change in contours has been continuous.

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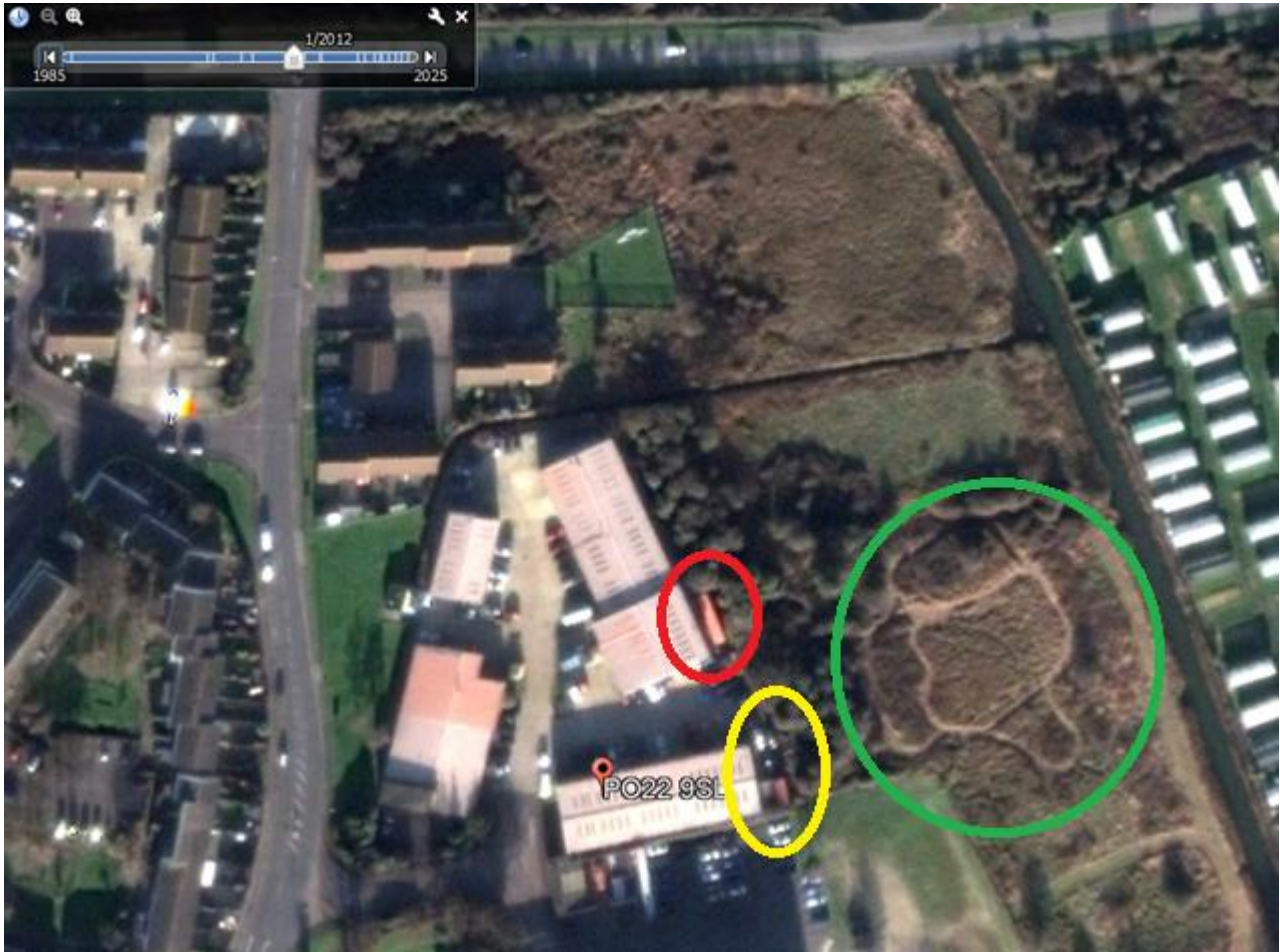
PROwe Planning Solutions, [REDACTED]



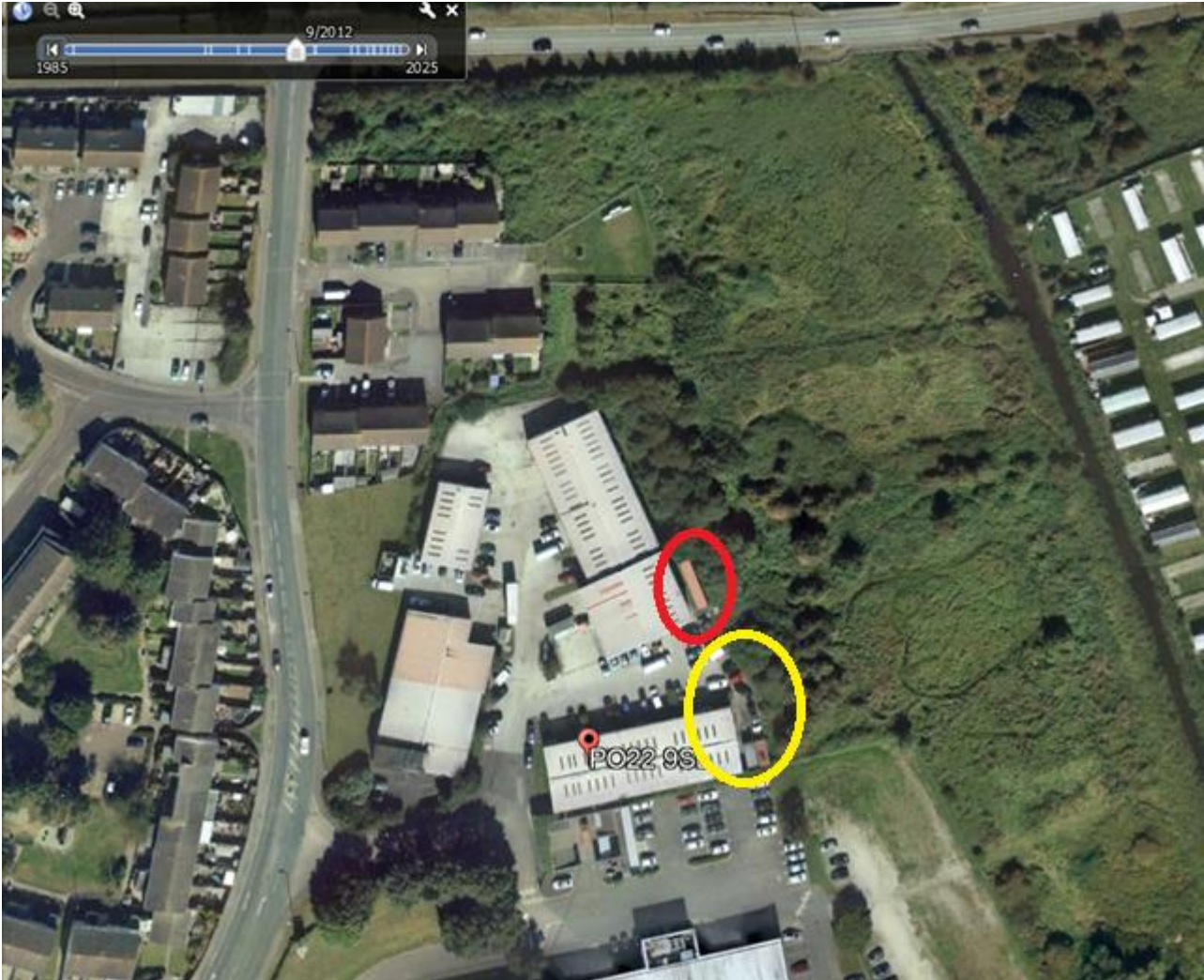
Above 2005 aerial photo showing parking and storage of vehicles, trailers and lorry bodies (circled yellow on each aerial photo), the siting of storage containers and portable buildings (circled red on each aerial photo), and the storage of imported inert soils (circled green on each aerial photo)



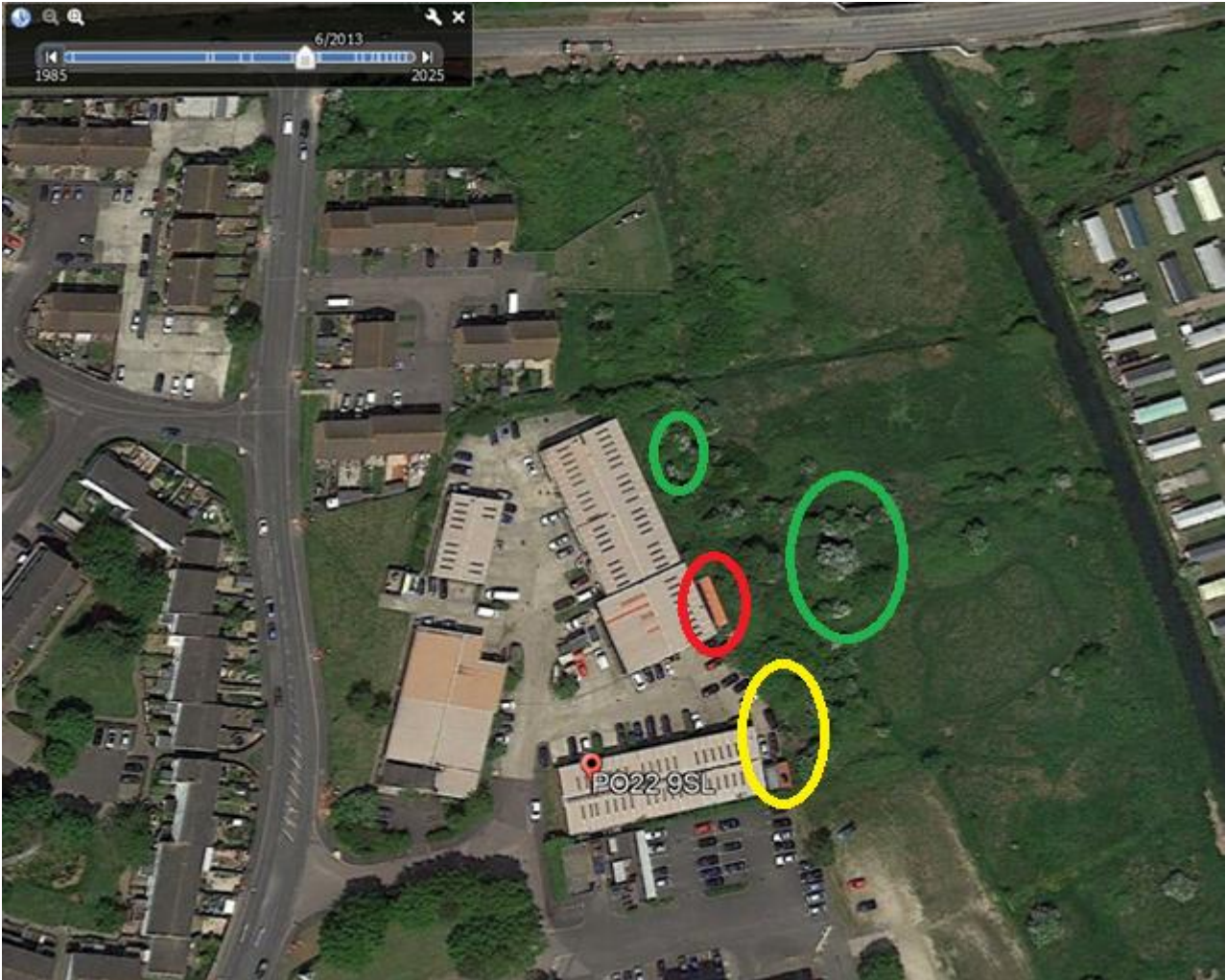
Above 2007 aerial photo showing parking and storage of vehicles, trailers and lorry bodies (circled yellow on each aerial photo), the siting of storage containers and portable buildings (circled red on each aerial photo), and the storage of imported inert soils (circled green on each aerial photo)



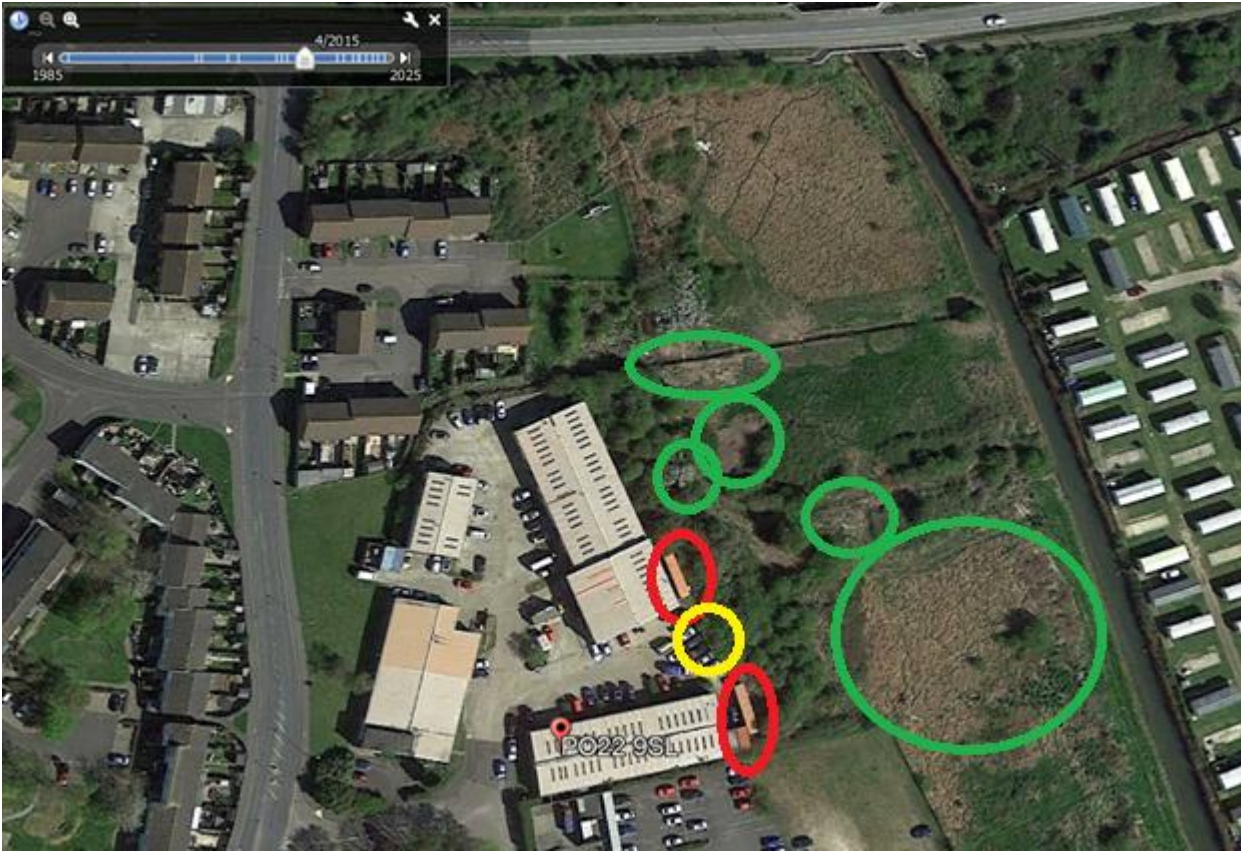
Above January 2012 aerial photo showing parking and storage of vehicles, trailers and lorry bodies (circled yellow on each aerial photo), the siting of storage containers and portable buildings (circled red on each aerial photo), and the storage of imported inert soils (circled green on each aerial photo)



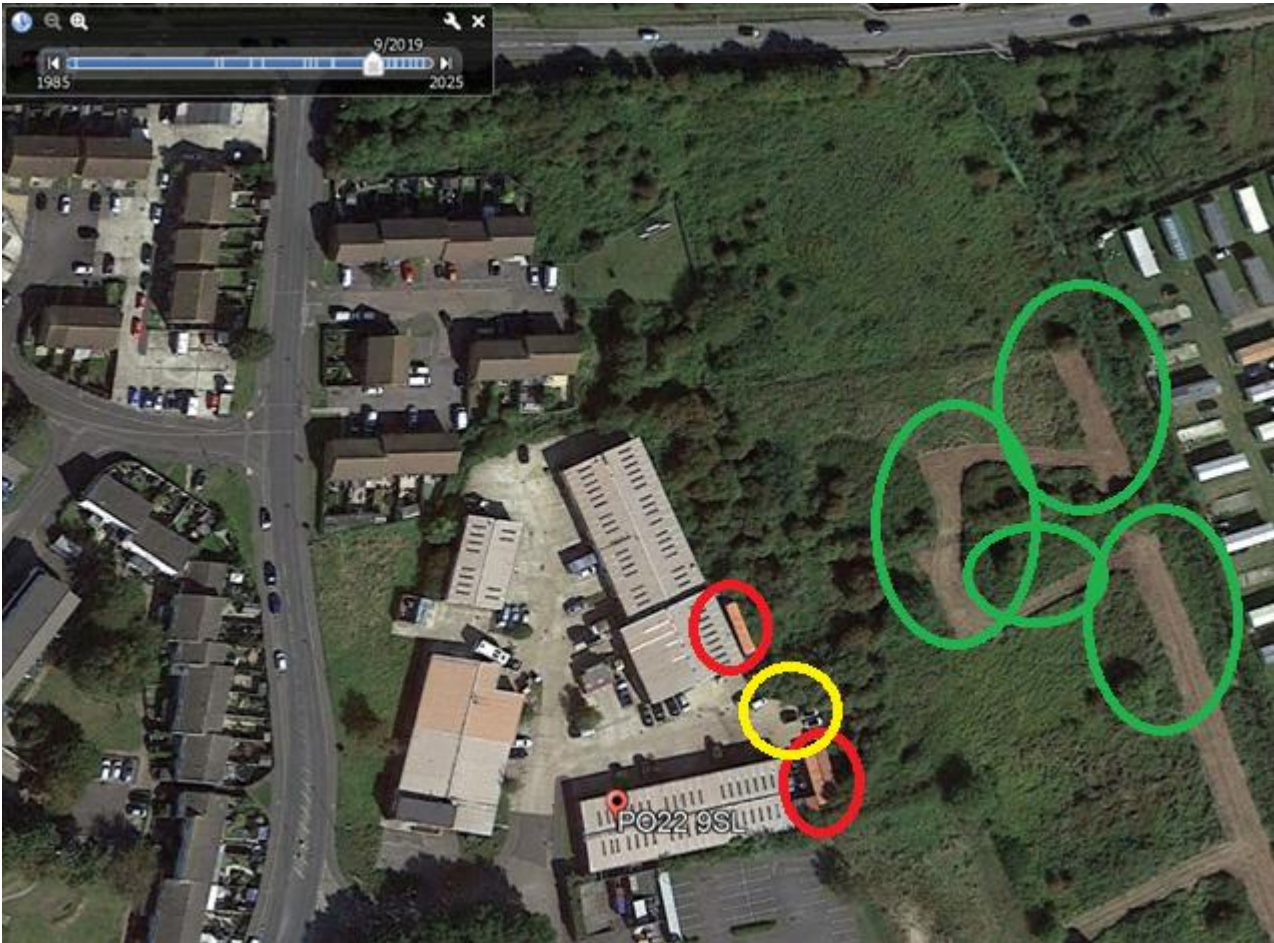
Above September 2012 aerial photo showing parking and storage of vehicles, trailers and lorry bodies (circled yellow on each aerial photo), the siting of storage containers and portable buildings (circled red on each aerial photo), and the storage of imported inert soils (circled green on each aerial photo)



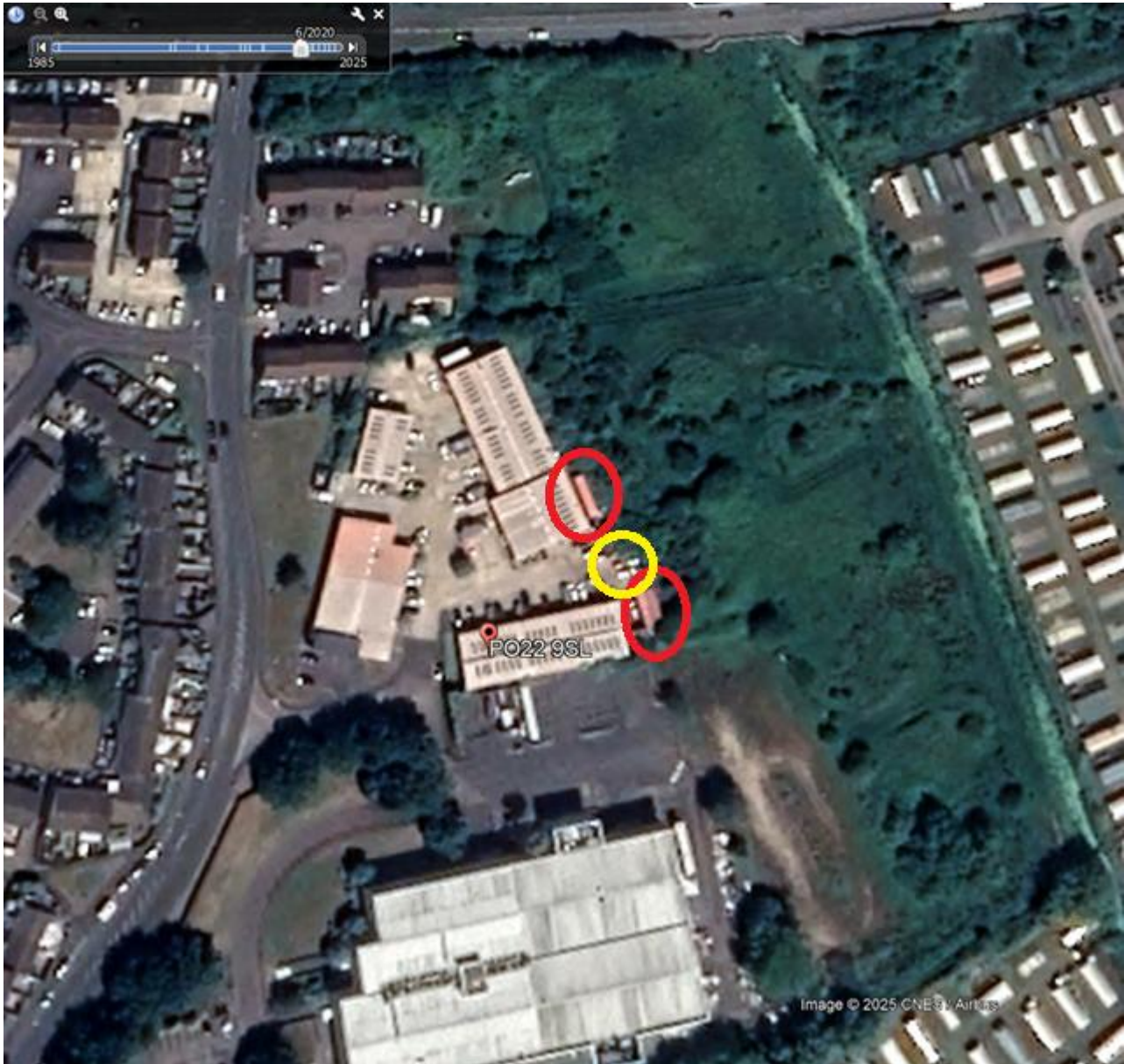
Above June 2013 aerial photo showing parking and storage of vehicles, trailers and lorry bodies (circled yellow on each aerial photo), the siting of storage containers and portable buildings (circled red on each aerial photo), and the storage of imported inert soils (circled green on each aerial photo)



Above April 2015 aerial photo showing parking and storage of vehicles, trailers and lorry bodies (circled yellow on each aerial photo), the siting of storage containers and portable buildings (circled red on each aerial photo), and the storage of imported inert soils (circled green on each aerial photo)



Above September 2019 aerial photo showing parking and storage of vehicles, trailers and lorry bodies (circled yellow on each aerial photo), the siting of storage containers and portable buildings (circled red on each aerial photo), and the storage of imported inert soils (circled green on each aerial photo)



Above June 2020 aerial photo showing parking and storage of vehicles, trailers and lorry bodies (circled yellow on each aerial photo), the siting of storage containers and portable buildings (circled red on each aerial photo), and the storage of imported inert soils (circled green on each aerial photo)



Above April 2022 aerial photo showing parking and storage of vehicles, trailers and lorry bodies (circled yellow on each aerial photo), the siting of storage containers and portable buildings (circled red on each aerial photo), and the storage of imported inert soils (circled green on each aerial photo)



Above June 2022 aerial photo showing parking and storage of vehicles, trailers and lorry bodies (circled yellow on each aerial photo), the siting of storage containers and portable buildings (circled red on each aerial photo), and the storage of imported inert soils (circled green on each aerial photo)

In terms of additional evidence in relation to importation of soils and land levels the LIDAR records have been checked.



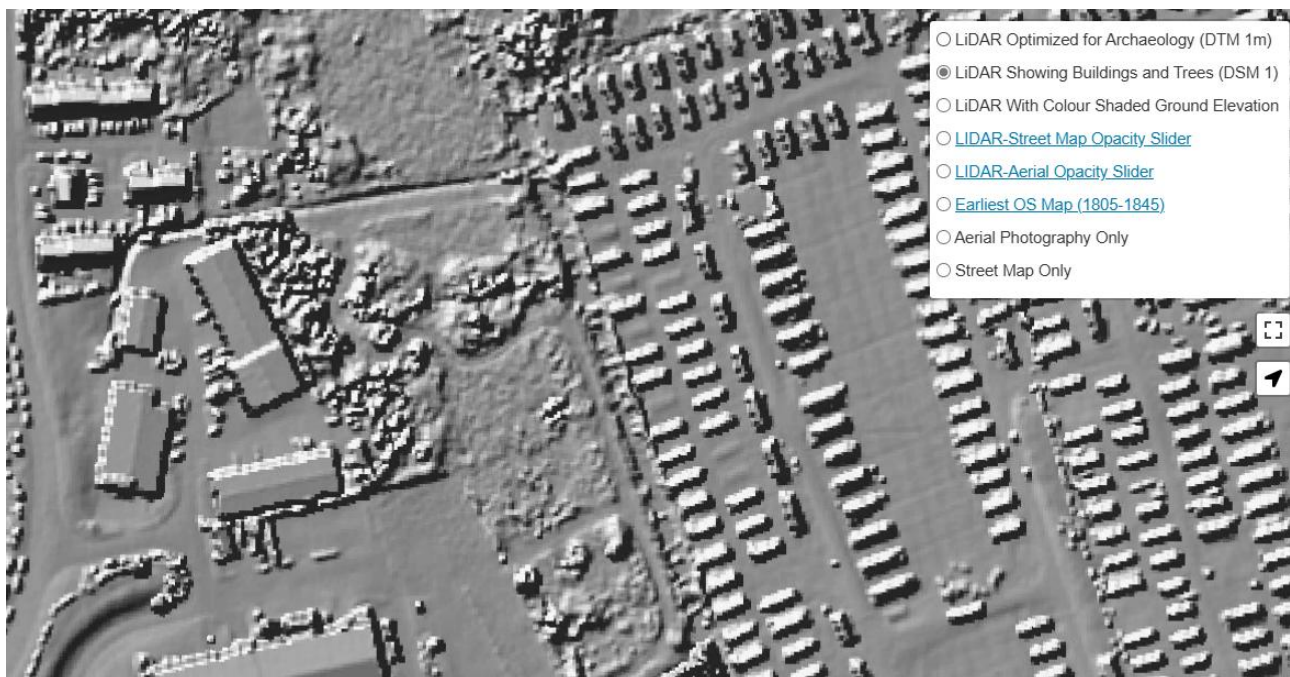
Above – Baseline LIDAR image. Whilst no date is given for the photo there appears to be no ambiguity that it would be pre-2001.

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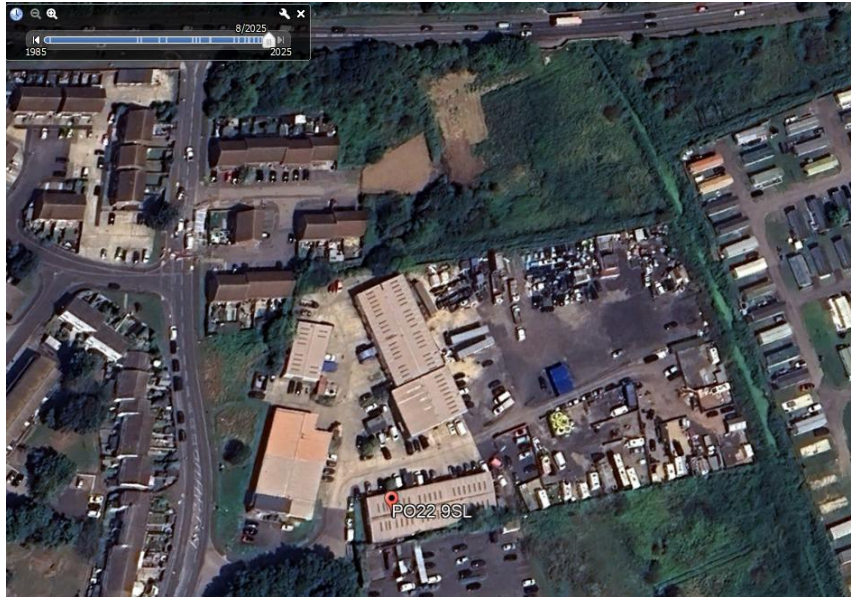
Above and below – LIDAR image with (below) and without trees (below) emphasised. Whilst no date is given for the photo it appears to be most consistent with the 2020 aerial photo below. The evidence serves to show the piling of soils around the site in comparison to the base line LIDAR photo above.





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The historic aerial photos along with the current August 2025 aerial photo above serve to confirm the ongoing B8 general open storage use of the land for the parking and storage of vehicles, trailers and lorry bodies, the siting of storage containers and portable buildings and the storage of imported inert soils for more than 10 years.

The evidence contained within this planning statement has been prepared in accordance with the guidance on Lawful Development Certificates contained within Circular 10/97 particularly paragraphs 8.12 and 8.15 which states, "As this test will accordingly be applied by the Secretary of State in any appeal against their decision, a LPA should not refuse a certificate because the applicant has failed to discharge the stricter, criminal burden of proof, namely "beyond reasonable doubt". Moreover, the Court has held (see *F W Gabbittas v SSE and Newham LBC* [1985] JPL 630) that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If the LPA have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate "on the balance of probability".

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

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

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