

The Town and Country Planning Act 1990

The Town and Country Planning Appeals (England) Rules 2000

PROOF OF EVIDENCE

Chris Barnes

**SOUTH CAMBRIDGESHIRE DISTRICT
COUNCIL**

ENFORCEMENT WITNESS

**Appeal by Mr James Ball against the decision to issue an
enforcement notice and refuse a certificate of proposed
lawful use or development at Land south of Chear Fen
Boat Club, Twentypence Road, Cottenham,
Cambridgeshire, CB6 8PX.**

March 2025

Planning Inspectorate Reference: APP/W0530/X/22/3308443 &
APP/W0530/C/24/3349303 (Certificate of Lawfulness & Enforcement Notice)

Local Planning Authority Reference: 22/01574/CL2PD & EN/00309/22

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1. Qualifications, experience and involvement

- 1.1. My name is Chris Barnes, I am employed as a Principal Planning Compliance Officer for the Greater Cambridge Shared Services (GCSPS), a planning service for both the City of Cambridge and South Cambridgeshire District Councils. I hold an RTPI accredited master's degree in Spatial Planning from Bartlett School of Architecture and Planning, University College London. I have been a Chartered Member of The Royal Town Planning Institute since 2016.
- 1.2. I have over thirteen years' experience in planning and regeneration, working in a variety of roles in Local Government, including as a Planning Officer, Enforcement Officer, Enforcement Team Leader, Regeneration Officer, Regeneration Manager, Assistant Director (Regeneration) and Executive Director (Place) for a number of different local authorities. My planning and enforcement experience includes investigating hundreds of alleged breaches of planning control, from initial investigation through to taking formal enforcement action. I also have extensive experience exercising planning judgement and considering planning applications.
- 1.3. Since September 2024 I have worked for GCSPS in my current role. My involvement in this appeal started commensurate with my employment; I was asked to review the file and documents to date, and upon doing so I confirmed that in line with the RTPI's code of conduct I was satisfied that I could present the Council's case in relation to the Lawful Development Certificate and Enforcement Notice.
- 1.4. The evidence which I have prepared and provided for this appeal in this proof of evidence is true and has been prepared and is given in accordance with the guidance of my professional institution. I confirm that the opinions expressed are my true and professional opinions.

2. The Enforcement Notice

2.1. The Enforcement Notice was issued on the 18th July 2024, to take effect on 18th August 2024. The reasons for issuing the notice are as follows:

“The alleged breach of planning control has occurred within the last 10 years.

The site is located outside of the development framework boundary of Cottenham. The development results in the encroachment into the open countryside and incremental growth in an unsustainable location. To access local services/facilities the future occupiers of the site will have to travel a significant distance via a car. The development represents encroachment of the open countryside, incremental growth in an unsustainable location and a need to travel, particularly by car. The development is therefore contrary to Policies S/3, S/7 H/22 & TI/2 of the South Cambridgeshire Local Plan 2018 and fails to comply with the provisions of the National Planning Policy Framework.

The development results in a significant urbanisation of the site in a rural setting. The urbanisation of the site fails to appropriately relate to its setting and significantly harms the character of the site and the wider surrounding area. Accordingly, given the development is located outside of the development framework of Cottenham, the development contravenes Policies S/7, H22 & HQ/1, of the South Cambridgeshire Local Plan 2018 and fails to comply with the provisions of the National Planning Policy Framework and therefore allows a form of development that is not sustainable.

The development does not accord with Policy 16 of the Cambridgeshire and Peterborough Minerals and Waste Local Plan nor paragraph 187 of the NPPF because it has not been demonstrated that the Mitchell Hill Quarry will not result in unacceptable amenity issues or adverse impacts to human health for the occupiers or the users of the development; dust and noise are of particular concern. In the absence of contrary evidence, the proposed development appears to be incompatible with the adjacent quarry.

In the absence of a statement demonstrating safeguarding of the Sand and Gravel Mineral Safeguarding Area, the development is contrary to Policy 5 of the Cambridgeshire and Peterborough Minerals and Waste Local Plan (June 2021).

In the absence of submission of a biodiversity statement outlining the mitigation methods of the impact the development has upon the local wildlife or existing planting, the development is contrary to Policy NH/4 of the South Cambridgeshire Local Plan.

The land appears to be contaminated. In the absence of an assessment of the extent of contamination and any possible risks, the development is contrary to Policy SC/11 of the South Cambridgeshire Local Plan.

The development partly falls within Flood Zone 3. At present the flood risk of part of the site means the safety of people and ability of people to reach places of safety or access by emergency services is compromised. The development is therefore contrary to Policies CC/8 & CC/9 of the South Cambridgeshire Local Plan and Section 14 of the NPPF.

The development leads to the creation of an access on a stretch of classified highway where the principal function is that of carrying traffic freely and safely between centres of population. The vehicular movements associated with the use of the access in respect of the stationing of caravans for residential purposes, nine dayrooms and the formation of hardstanding ancillary to that use leads to conflict and interference with the passage of through vehicles to the detriment of the principle function and introduces a point of possible traffic conflict, being detrimental to highway safety. The development is therefore contrary to Policy TI/2 of the South Cambridgeshire Local Plan and Section 9 of the NPPF.

The purposes of the notice is to remedy the breach of planning control. The Council considers there are no steps short of those required which can be taken to remedy the breach of planning control.

2.2. The enforcement notice requires the use of the land for the stationing of caravans for residential occupation to cease, together with removal of various elements of operational development and associated paraphernalia, within three months of the notice taking effect. The requirements listed within the enforcement notice are as follows:

- I. Permanently cease the use of the Land for the stationing of caravans for residential occupation.*
- II. Permanently remove all caravans, non-agricultural equipment, vehicles, and other domestic items from the Land, which facilitate the material change of use of the Land.*
- III. Permanently remove all sheds, outbuildings and other domestic structures and paraphernalia from the Land, which facilitate the material change of use of the Land.*
- IV. Permanently remove all fencing from the Land that have been erected to subdivide the land, including all associated fixings fittings and detritus therefrom, which facilitate the material change of use of the Land.*
- V. Permanently remove all hardstandings facilitating the material change of use of the land and restore the ground levels to its previous condition.*
- VI. Permanently remove all earth bunds facilitating the material change of use of the Land and restore the ground levels to its previous condition.*

2.3. The notice was constructed with reference to the Development Plan for South Cambridgeshire District Council, and the national policy context included in the National Planning Policy Framework (NPPF) and other material considerations.

Clarifications to the enforcement notice

2.4. During the Case Management Conference, the Inspector requested clarification of what areas of the site were intended to be affected by ground

V in relation to the removal of hardstanding. The Council acknowledges that there appears to have historically been a hardstanding between the B1049 and site. For the purposes of the notice, the Council will accept that “hardstanding” refers to any grounds surfaced with a hard material in the site, excluding the area I have marked in yellow on the attached on Plan [Exhibit 1]. This would not cause injustice to any party but brings a helpful clarification to the extent of the area referred to in the notice.

3. The Lawful Development Certificate

- 3.1. An application was received and validated on 29th March 2022 for Certificate of lawfulness under S192 for the stationing of 2 mobile homes for residential purposes. The Council refused the application on 5th September 2022, ref 22/01574/CL2PD. The reasons for refusal were:

The previous lawful development certificate S/1346/16/LD (2016 Certificate) did not identify a wider planning unit operating only as a caravan site. The wider use of the land was likely to have been in mixed use as part of an agricultural feed business and not solely a caravan site. The scope and effect of the 2016 Certificate was therefore limited to its terms and geographical remit. With the boundaries of the 2016 Certificate drawn as they are, the change of use of the land from being partly used for a single mobile home to the entire land being used for 2 mobile homes would constitute a material change of use of the land at the very least because the planning unit is different and because the Council is aware that the previous lawful use of the land was in all likelihood a mixed use. That notwithstanding, the lawful use as defined in the 2016 Certificate was subsequently, and in all likelihood, abandoned based on the information available to the Council; the mobile home being first abandoned and then dilapidated and derelict. Even if the applicant is correct that the 2016 Certificate pertained to the entire portion of land the subject of the current application and the residential use had not been abandoned, the proposed use would still not be lawful because it would amount to intensification of the use as a matter of fact and degree and

taking account of the planning impacts of the more intensive use.

4. Relevant Planning History

- 4.1. The site has a history of time-limited permissions for the stationing of a mobile home. It is accepted by both parties that the site was occupied in breach of the final temporary permission to be granted. In May 2016, a Certificate of Lawful Existing Use or Development was sought. The Council approved a certificate for the stationing of one mobile home on the land; the boundary for the CLEUD was drawn tightly around the location of the mobile home, and there was no determination as to the wider parcel of land. The application was validated 2nd June 2016, and the decision was issued 11th October 2016 S/1346/16/LD | Certificate of lawful development for the standing of a mobile home | Land To The East Of Chear Fen Boat Club Twentypence Road Cottenham (greatercambridgeplanning.org)
- 4.2. The site was subsequently purchased by Steven and Jeanette Tidd in November 2016. In 2020, a new mobile home was sited on the land, with what appeared to be a small amount of hardcore imported to site it on. An enforcement investigation was carried out, which culminated with the service of an enforcement notice in 2021. The enforcement notice was appealed, and in 2022, the notice was withdrawn, and the mobile homes were removed from the site and the enforcement file closed.
- 4.3. Later in 2022, the site was purchased by Mr Price & Mr Ball. A Certificate of lawfulness under S192 for the stationing of 2 mobile homes for residential purposes was submitted. The application was validated 29th March 2022 and refused 5th September 2022, with the appeal held in abeyance. 22/01574/CL2PD | Certificate of lawfulness under S192 for the stationing of 2 mobile homes for residential purposes. | Land To The South Of Chear Fen Boat Club Twentypence Road Cottenham Cambridgeshire (greatercambridgeplanning.org)
- 4.4. Planning application 22/01703/FUL was submitted for the Change of use of

land through intensification to the stationing of caravans for residential purposes, nine dayrooms and the formation of hardstanding ancillary to that use. The application was validated 17th May 2022 and refused 5th September 2022; the appeal has been held in abeyance. 22/01703/FUL | Change of use of land through intensification to the stationing of caravans for residential purposes, nine dayrooms and the formation of hardstanding ancillary to that use. | Land To The South Of Chear Fen Boat Club Twentypence Road Cottenham Cambridgeshire (greatercambridgeplanning.org)

- 4.5. An enforcement investigation commenced following reports that development was being carried out on the land without planning permission in place, including the importation of material, laying of hardstanding, and siting of caravans/mobile homes. The result of that investigation is the enforcement notice appeal to which this statement relates.

5. Scope of Evidence

- 5.1. My evidence covers all of the grounds of appeal against the enforcement notice, in addition to the reasons for refusal of the Lawful Development Certificate for the stationing of 2 mobile homes. There is no ground (a) appeal against the enforcement notice, but there is a linked appeal against a refusal of planning permission.

6. Relevant Legislation, Policy and Guidance

This section outlines the relevant legislation, policies and guidance which I have used to inform my assessment of the development and issues under the notice.

Town and Country Planning Act 1990 - Statutory Definitions

6.1. Section 55 of The Town and Country Planning Act 1990 states:

“development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land [my emphasis].

(1A) For the purposes of this Act “ building operations ” includes—

(a) demolition of buildings;

(b) rebuilding;

(c) structural alterations of or additions to buildings; and

(d) other operations normally undertaken by a person carrying on business as a builder.

6.2. Town and Country Planning Act 1990 Section 192 Certificate of lawfulness of proposed use or development.

(1) If any person wishes to ascertain whether—

(a) any proposed use of buildings or other land; or

(b) any operations proposed to be carried out in, on, over or under land,

would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

(2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(3) A certificate under this section shall—

(a) specify the land to which it relates;

(b)describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);

(c)give the reasons for determining the use or operations to be lawful; and

(d)specify the date of the application for the certificate.

(4)The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.】

South Cambridgeshire Local Plan (2018)

S/3 Presumption in Favour of Sustainable Development

S/7 Development Frameworks

HQ/1 Design Principles

H/20 Provision for Gypsies and Travellers and Travelling Showpeople

H/22 Proposals for Gypsies, Travellers and Travelling Showpeople Sites on Unallocated Land Outside Development Frameworks

H/23 Design of Gypsy and Traveller Sites, and Travelling Showpeople Sites

NH/2 Protecting and enhancing Landscape

NH/4 Biodiversity

NH/5 Sites of Biodiversity or Geological Importance

SC/10 Noise Pollution

TI/2 Planning for Sustainable Travel

South Cambridgeshire Supplementary Planning Documents (SPD)

Biodiversity SPD – Adopted 2022

Cottenham Neighbourhood Plan (2021)

Cambridgeshire and Peterborough Minerals and Waste Local Plan (2021) (“MWLP”)

Policy 5 & Policy 16

The full wording of the above policies has been provided to the Planning Inspectorate with the Councils questionnaire submission.

National Planning Policy Framework (NPPF)

7. Appeal Scheme

7.1. This section outlines the facts about the appeal site and identifies the unauthorised development.

The Appeal Site

7.2. The appeal site is located upon land which is directly south of the Chear Fen Boat Club, Twentypence Road, Cottenham. The River Great Ouse forms the northern boundary of the site and the B1049 (Twenty Pence Road) forms the western boundary of the site. The eastern and southern boundaries were defined by established mature hedgerows/trees, although sections of these are no longer in situ.

7.3. Whilst the site is referred to as Cottenham, the site is significantly outside of the development framework for the settlement, and is located on an isolated stretch of road, with significant vistas into the site from both sides.

7.4. The unauthorised development compromises the change of use of the land to a gypsy & traveller site comprising of nine large pitches, and associated non-agricultural equipment, domestic paraphernalia, outbuildings/structures, fencing, hardstanding and earth bunds.

7.5. The site which was considered as part of the Lawful Development Certificate is in the same location as the enforcement notice; however, the development that the appellant sought to confirm would be lawful was “the stationing of 2 mobile homes for residential purposes”. Clearly this is not the development that has subsequently been carried out, but I understand that the appellant wishes to establish whether this would be lawful as part of the planning context for the planning appeal.

8. Assessment of considerations

8.1. The appellant has appealed the Council's enforcement notice on grounds (b), (c), (d), (f) and (g). The Certificate of Lawfulness for a Proposed Use or Development has also been appealed. I will address each of these in turn.

Enforcement Notice

Ground (b) - "that the alleged breach has not occurred"

8.2. The Council considers that, at the time the development subject to this notice was carried out, the use of the land for the stationing of a single mobile home had been abandoned. I accept that ***Hughes v SSETR [2000] 80 P&CR 397*** confirmed that the four key considerations for abandonment are; physical condition, the period of non-use, whether there has been any other use, and the owner's intentions. I accept that time and other uses are less relevant to this situation. However, the original owner had allowed their mobile home to become dilapidated prior to it being removed from the site. Furthermore, when the site transferred to the ownership of the second owners, the Council took enforcement action against them for the siting of a new mobile home. Following this action, the file was closed once that enforcement notice was effectively complied with. Had there been an extant LDC, it would not have been necessary for the Council to take enforcement action or for those owners to remove the new mobile home. Following the successful remedy of the breach, the owner sold the land to the current owners.

8.3. In terms of physical condition, photographs provided by Ms Jeakins show that the caravan on site prior to 2020 was dilapidated and not habitable. Whilst the period of non-use was not one of decades, that is relative to the period of use which was also not one of decades. Furthermore, the use had been clearly abandoned by those owners and was definitely abandoned by the second owners once an enforcement notice was issued. Any intention to

occupy a caravan on the appeal site was short lived.

8.4. If the Inspector does not consider the use to be abandoned between the original owners and second owners, it was clearly the intention of the second owners to cease the use of the land completely and definitely at that time, in order to prevent further formal enforcement action being taken and comply with the Council's direction. It has been suggested in an informal meeting with the appellant's agent that this was not the case, however the Council and I can only respond to actual evidence put before us. The current breaches of planning control which are the subject of the appeals have been separately carried out by the third (current) owners. This is clear when comparing photographs of the site in 2021 and 2022.

8.5. Should the Inspector be minded to take a different view on abandonment, it is in any event clear that a change in the character of the use of the site, and a material change of use of the land, has occurred. At the time that the Council issued the CLEUD in 2016, the site was typified by the use of a modest mobile home. Supporting evidence submitted alongside the 2016 CLEUD indicated that the wider site had likely been utilised for a mixed use including low-level agricultural activities, with significant parcels of the land left as grass/trees, following a more intensive use of the site circa. 2007. Access to the site was via what appeared to be a dirt-track. This is supported by the Google Earth imagery submitted in exhibit 2. Both the Google Earth imagery and recent photographs of the site show a significant change in the character of the site. Roads and plots have been laid out with the use of hardstanding, and a much larger area of the site has been developed, giving the appearance of a formalised caravan park, rather than the much softer, agricultural feel when part of the site was occupied by a single mobile home. The change in character goes far beyond even a description of "intensification" of the site – the character of the site, the level and type of activity, noise, disturbance and other impacts from the site would be substantially different when comparing the use under the original owners (see 2016 CLEUD) and the present site. In my view it is unequivocal that as defined by s55 of The Act, a material change of use has occurred.

8.6. In *Hertfordshire County Council v Secretary of State for Communities and Local Government* [2012] EWCA Civ 1473, [2013] J.P.L. 560, the Court of Appeal confirmed that intensification of use is capable of amounting to a material change of use, such as to require a grant of planning permission under s. 57 of the 1990 Act, provided it amounts to a “material change in the definable character of the use of the land” (at [11]). On the facts, the Court held that the inspector had been entitled to conclude that a “very substantial” increase in the level of operations on land which benefited from planning permission for use as a scrap metal yard did not amount to a material change of use, since, fundamentally, the land was still “used as a scrap yard, albeit on a larger scale” (at [15]). The inspector had erred, however, insofar as she had failed to consider the impact of the use on other premises, including as regards the impact of the increased explosions and traffic ([25] and [28]).

8.7. Plainly, here there are numerous on site and off site impacts including landscape, ecology, minerals and residential amenity all of which lead to a material change in the definable character of the use of the land due to the intensification of development.

Ground (c) - “that there has not been a breach of planning control”

8.8. The enforcement notice alleges the change of use of the site for the stationing of mobile homes for residential purposes, with nine mobile homes and multiple day-room buildings present on the site. The Council has never issued a planning permission or decision that would allow for the lawful use of the site for nine mobile homes and associated activity; it is unequivocally a breach of planning control. Whilst the appellant argues that the siting of one mobile home may be lawful, this is plainly not how the site is currently being used, as outlined in 8.5 to 8.7. The site has been developed and sub-divided, a result of the site being completely redeveloped by the current owners. The current situation has not built upon the use started by the second owners – that use has ceased and a new use has commenced in its own right.

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”

8.9. If the Inspector concludes that the previous lawful use of the land has been abandoned, there will be no fallback use under Section 57(4) of The Town and Country Planning Act as referenced by the appellant. In any event, the lawful use of the parcel of land as a whole has never been concluded by the Council.

8.10. Turning to the hardstanding and earth bunds, works were carried out in June 2022 onwards which are clearly not exempt from enforcement action. Previous aerial photographs show that the site was accessed by an informal dirt track; this has been replaced by a new hardstanding, with multiple spurs delineating pitches on the caravan site. In addition, the photographs in the appeal statement clearly show significant earthworks being carried out on site, including the creation of bunds. The Council has conceded that a small element of the hardstanding is not the subject of this notice, and has invited the Inspector above to take note of this.

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 or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.”

8.11. With respect to requirement (i), as outlined above, the appellant in their submissions to the Council and the Inspectorate to date has not established that there is a lawful fallback for the siting of a mobile home. However, should the Inspector be minded to determine that the use has not been abandoned, I would accept that the siting of a single mobile home within the planning unit (not just the red line specified in the 2016 CLUED) would be a lawful fallback, as the red line imposed on the 2016 CLUED decision was not reflective of the planning unit, and the siting of a mobile

home anywhere within a single planning unit would not involve development. However, the difference in planning terms between the fallback and the current use is hugely significant; the site at present in no way resembles the siting of a single mobile-home and agricultural/ancillary use of the land.

8.12. Regarding requirement (v) and (vi) in so far as they relate to ground levels and previous condition, there are a range of photographs and aerial photographs that can be used to establish the previous ground condition, and should the inspector dismiss the appeals, these should be used to remedy the breaches of planning control. The Council accepts that the requirements could have been worded differently and would not be averse to the Inspector applying a finite height limit, e.g. reduce the bunds to no higher than 0.5m in height. The fact that the appellant has altered the ground levels without survey and without permission, creating any 'uncertainty', should not then be grounds to stymie effective enforcement action.

8.13. In relation to the hardstanding, it is clear from site photographs that extensive engineering works have been carried out by the current owners from June 2022, including the importation of hardcore and the laying of hardstanding. As above, I have accepted that a small section of hardstanding should be allowed to remain, where it has historically served an access.

8.14. Turning to the earth bunds in (vi), there are clearly works that were undertaken within a timeframe which is enforceable. With reference to any works that may have otherwise been lawful at the time of the material change of use, the appellant has not provided any evidence to date of this.

Ground (g) - "that the time given to comply with the notice is too short"

8.15. The material change of use and associated development has been

carried out without the benefit of planning permission. Given the scale of works, the refused 2022 CLEUD, and the planning application (submitted in April 2022 but initially invalid) pertaining to development similar to that which was subsequently carried out on the site, it is difficult to perceive that the owners of the site and their representatives considered that planning permission was not required or that the use was lawful. They have nevertheless chosen to carry out the works at risk without planning permission, and for the reasons relating to the linked planning appeal, the works have resulted in an unacceptable impact. A period of 2 years for compliance, as requested by the appellant, fails to acknowledge the scale and harm of the breach, and considers factors which are not relevant to the time for compliance. Whilst the Council accepts that the appellant will need to find alternative permanent accommodation, compliance with the notice should not be dependent on this; the material change of use and associated development could practically be completed in the timeframe set out in the notice.

- 8.16. It should be noted that whilst the appellant has referenced the supply of gypsy and traveller pitches within the area, even at the point of preparing proofs, the appellant has not confirmed the status or extent of the people occupying the site.

Lawful Development Certificate

- 8.17. An application was received and validated on 29th March 2022 for Certificate of lawfulness under S192 for the stationing of 2 mobile homes for residential purposes. The Council refused the application on 5th September 2022, ref 22/01574/CL2PD . The reasons for refusal were:

The previous lawful development certificate S/1346/16/LD (2016 Certificate) did not identify a wider planning unit operating only as a caravan site. The wider use of the land was likely to have been in mixed use as part of an agricultural feed business and not solely a caravan site.

The scope and effect of the 2016 Certificate was therefore limited to its terms and geographical remit. With the boundaries of the 2016 Certificate drawn as they are, the change of use of the land from being partly used for a single mobile home to the entire land being used for 2 mobile homes would constitute a material change of use of the land at the very least because the planning unit is different and because the Council is aware that the previous lawful use of the land was in all likelihood a mixed use. That notwithstanding, the lawful use as defined in the 2016 Certificate was subsequently, and in all likelihood, abandoned based on the information available to the Council; the mobile home being first abandoned and then dilapidated and derelict. Even if the applicant is correct that the 2016 Certificate pertained to the entire portion of land the subject of the current application and the residential use had not been abandoned, the proposed use would still not be lawful because it would amount to intensification of the use as a matter of fact and degree and taking account of the planning impacts of the more intensive use.

8.18. I have reviewed the reasons for refusal and Officer's report and I broadly agree with most of it. Firstly, as set out in section 8.2-8.4 above, the Council considers that the use of the site was abandoned. The decision of the Council to issue a CLUED in 2016 indicates the lawfulness of the described use at that specific time, but does not apply in perpetuity, where the planning position has materially changed.

8.19. Secondly, the reasons for refusal set out that in the Council's view, the siting of 2 mobile homes would amount to a material change of use. Whether a change of use, especially through intensification, is material, is a fact and degree assessment, based on the facts of each individual case. Given the fairly isolated location, away from any built settlement, and the prominent views of the site and access from the highway, a doubling of the activity on the site would result in a significant increase in on-site and off-site impacts including comings and goings, vehicles, deliveries, the number of people on site, and noise and disturbance. It is not the intensification itself that is determinative, but in my view, changing a site in this location from one mobile home to two would amount to a

material change of use of the land. For these reasons the Council still considers that refusal of the s192 certificate was reasonable, albeit there is now common ground with the appellant regarding the planning unit.

9. Summary and Conclusions

9.1. For the reasons outlined within this proof, the Council's notice should be upheld, and the appeal should be dismissed. There has been a clear and substantial material change of use, which has demonstrably greater impact and harm than the previous lawful use of the site. Even if there is a lawful use of the site for the siting of one or for argument's sake two caravans, the material change of use to a traveller site, with large formalised pitches has clearly occurred, and cannot be considered a lawful intensification of the existing use.

10. Appendices

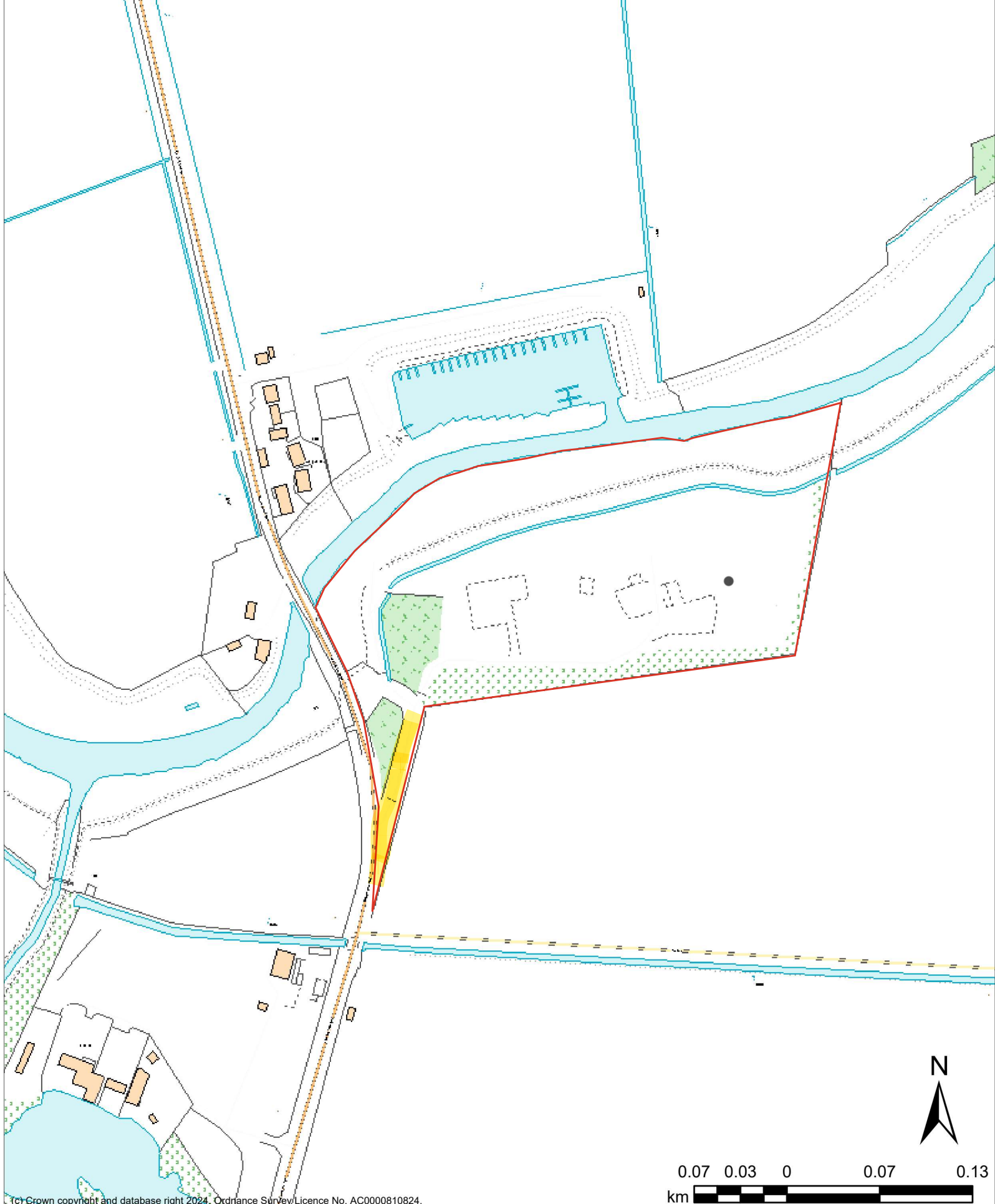
Exhibit 1 – Plan showing area excluded from reference to “hardstanding” in the enforcement notice

Exhibit 2 – Aerial photographs of the site

Exhibit 3 – Site photos 2021/2022

Exhibit 4 – Site photos 2024

Exhibit 5 – 2016 CLUED Photos



(c) Crown copyright and database right 2024. Ordnance Survey Licence No. AC0000810824.



Title:

EN/00309/22 Enforcement Notice Plan

Date:

09 July 2024

Produced by:

3C Shared Services Mapping Portal

CB Exhibit 2

1/1/1999



14/03/2003



CB Exhibit 2

01/01/2007



09/04/2015



CB Exhibit 2

10/09/2018



28/05/2020



CB Exhibit 2

20/04/2022



13/06/2023



2021



CB Exhibit 3



2022





CB Exhibit 3



2021



CB Exhibit 4



CB Exhibit 4



CB Exhibit 4





BOAT ARRIVING AT SITE IN 1978



BOAT STILL ON SITE 2016



MOBILE HOMES ON SITE





THE SITE IN THE 1980's





ROBERT LAPTHORN ON SITE AGED 10, NOW AGED 40



PART OF SITE NOW.