

## **STATEMENT OF CASE**

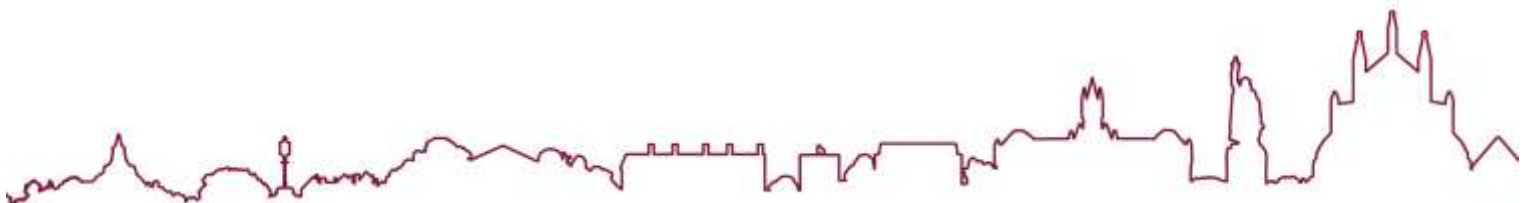
**SITE:** 12 THE OLD PIGGERY, FIRGROVE LANE, NORTH  
BOARHUNT, HAMPSHIRE

**APPEAL BY:** MR J KEET

## **AGAINST ENFORCEMENT NOTICE**

**DATE:** July 2023

**APPEAL REF:** APP/L1765/C/23/3320888



## 1.0 INTRODUCTION

1.1 This site forms a separate planning unit within a larger caravan site; this has only come to light following the submission of a Lawful Development Certificate application by the owner (22/01611/LDC noted below).

1.2 Certificate of Lawfulness application 22/01611/LDC was refused on 23 September 2022 (Decision Notice attached at Appendix A). This application was for “Retention of a building as a single dwellinghouse (Class C3)”. The Legal Officers consideration of the evidence submitted with the application is attached at Appendix B. This refusal has not been appealed by the owner.

1.3 A small strip of the land included in the red line of the recent LDC application forms part of an approved caravan site for 4 pitches (18/01691/FUL – Decision Notice and Location Plan attached at Appendix C). The development in question creates a separate planning unit and has sectioned an area of land that was in a mixed use of agriculture and residential caravan site. The erection of a dwelling and creation of a separate planning unit is considered to be a material change of use to residential.

1.4 An Enforcement Notice was issued on 04 October 2021 for a unauthorised caravan site and the area of land, the subject of this report, was included. It was believed at the time of issue, and up until the LDC application noted above was submitted, that this land formed part of the wider caravan site. A copy of the Enforcement Notice is attached at Appendix D for information. This notice was appealed by the owner and the appeal withdrawn on 02 May 2023 (APP/L1765/C/21/3285763 & /64 & /65).

## 2.0 RESPONSE TO GROUND D

### HISTORY

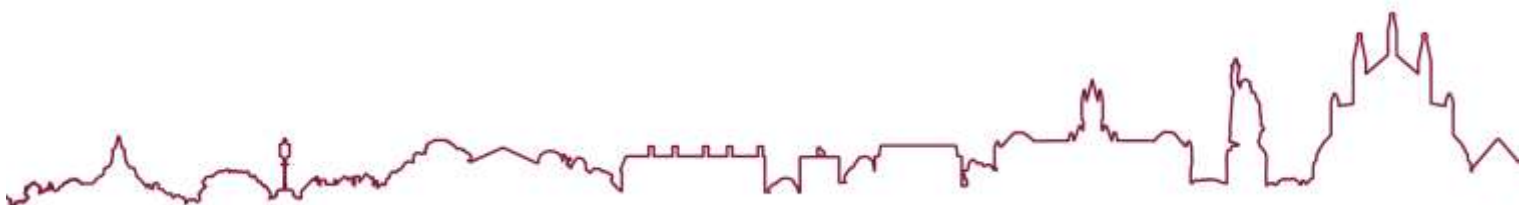
11/01875/FUL - Siting of 4 residential gypsy caravans - temporary permission (until 30.11.16).

16/01350/FUL - Continued stationing of 16 residential gypsy caravans.  
WITHDRAWN 03/08/2016

16/01354/FUL - Use of land for six transit gypsy caravan pitches. WITHDRAWN  
28/02/2017

17/00951/FUL - This application refers to both The Old Piggery and The Withy Beds Sites. Permanent retention of twenty-six residential caravans for travellers and 6 transit pitches, together with associated access arrangements, foul water disposal, landscaping and earth bund. WITHDRAWN APPEAL FOR NON-DETERMINATION  
21/06/2018

18/01691/FUL - Continued siting of 4 no. residential gypsy caravans without complying with Condition 3 of planning permission ref. 11/01875/FUL. PERMIT  
01/11/2018



20/00659/LDC – The use of the Land for the uncontrolled siting of caravans creating a caravan site. CERTIFICATE REFUSED 02/07/2020

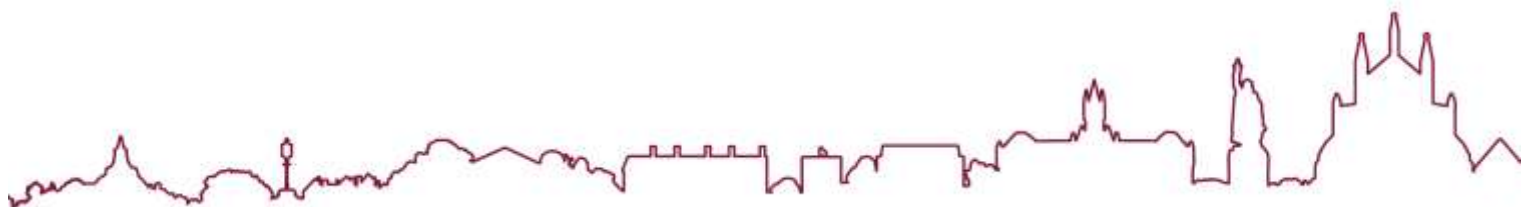
21/00167/COU - Unauthorised change of use of caravan site. ENFORCEMENT NOTICE ISSUED – APPEAL WITHDRAWN (APP/L1765/C/21/3285763, 3285764 and 3285765)

22/01611/LDC - Retention of a building as a single dwellinghouse (Class C3). CERTIFICATE REFUSED 27/09/2022

## AERIAL IMAGERY



(WCC Map 2017)



(WCC Map 2013)



(WCC Map 2007)

2.1 The aerial imagery above shows a grassed field in 2007 with a small area of developed land to the west with access from Firgrove Lane. The area to the north was developed following temporary permission in 2011, and subsequent permanent permission in 2018 (application details abovementioned). Over the preceding years the site has expanded into the site in question without planning permission. The land surrounding and including the site in question is subject to ongoing enforcement action as mentioned in paragraph 1.4.

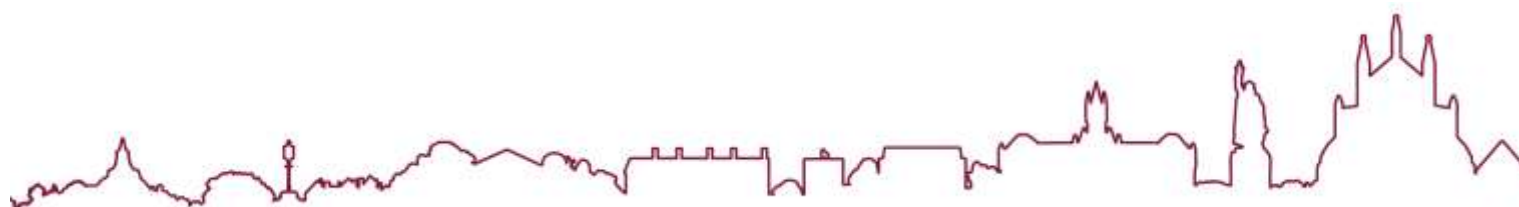
2.2 In 2013 the land appears to have been cleared, with fencing erected and what looks to be a small touring caravan present. It is unclear what the land was being used for at this time and no evidence has been provided by the owner to substantiate a use other than agriculture.

2.3 In 2017, the building (dwelling) in question is present, with other smaller buildings, vehicles, and paraphernalia. From aerial imagery, we can see that the building was erected sometime between 2013 and 2017. There is no clear evidence to indicate when it was constructed and for what purpose and the information submitted with the recent LDC was not sufficient to prove lawfulness. It is likely that it was constructed and/or substantially completed just prior to the current occupier taking residence (2017).

2.4 The land in question also contains a mobile home, amongst other structures; it is not believed that the mobile home is being lived in separately from the dwelling. This mobile home, and all other structures directly related to the unauthorised material change of use to residential, would be covered under the Murfitt principle.

## **ENFORCEMENT APPEAL**

2.5 An Enforcement Notice was served on 04 October 2021 (Enforcement Notice and Plan attached at Appendix D) for:



“Without planning permission, the material change of use of the Land to use as a residential caravan site; together with the construction of associated areas of hardstanding, buildings and fencing which facilitate the change of use of the Land”

and the red line for that notice covers where this dwelling is situated; however, the existing notice addresses the unauthorised use of the land as a caravan site, not this dwelling.

2.6 This dwelling was not disclosed to the enforcement officer, nor was it obvious, despite a number of on-site meetings with the owner, subsequent enforcement notice including this area of land, and appeal proceedings (APP/L1765/C/21/3285763, 3285764 and 3285765).

2.7 The most recent enforcement appeals (APP/L1765/C/21/3285763, 3285764 and 3285765) included a statement of case submitted on behalf of the owner of the land and includes statements and plans showing the land in question as being part of the caravan site, with a caravan numbered as 7A. The statement of case is attached at Appendix E for information.

## **BUILDING**

2.8 The dwelling is considered to be a building and not a caravan. Photos of the building are attached at Appendix F. It is clear that this dwelling is a building due to its size, degree of permanence, and attachment to the ground. This can be seen from the LDC application photos and plans submitted by the owner as part of the supporting statement (Appendix G).

2.9 There has been no conclusive direct evidence submitted to conclude that a building was erected, used for something other than residential, and subsequently altered to become a dwelling. The 4 year rule (change of use of an existing building to residential) is therefore not relevant to this case.

## **3.0 CONCLUSION**

3.1 The use of the land in question for residential is not considered to be immune under the 10 year rule as the Council does not have any evidence to conclude that the use started prior to this date (as explored above and as part of the LDC).

3.2 For the reasons given above and in the attached reports/appendices, the Inspector is respectfully requested to dismiss the appeal and uphold the enforcement notice in its entirety.

